



# TOWN OF BROOKFIELD

## *RULES AND REGULATIONS*

### BOARD OF HEALTH

#### **REGULATION TO ENSURE THE SANITARY AND SAFE OPERATION OF MARIJUANA ESTABLISHMENTS AND THE SALE OF MARIJUANA AND CANNABIDIOL**

##### **A. Statement of Purpose and Authority:**

- The purpose of this regulation is to protect the public health and welfare by ensuring local oversight and inspection of Marijuana Establishments and the sale of marijuana and cannabidiol by the Board of Health consistent with the authority given to municipalities under G.L. c. 94G, 935 CMR 500.000, and 935 CMR 501.000.
- 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, the Brookfield Board of Health enacts a Regulation to Ensure the Sanitary and Safe Operation of Marijuana Establishments and the Sale of Marijuana and Cannabidiol.

##### **B. Definitions:**

Unless otherwise indicated, terms used throughout this regulation shall be defined as they are in 935 CMR 500.000, 935 CMR 501.000, G.L. c. 94G, §1 and G.L. c 128, §116. In addition, for the purposes of this regulation, the following words shall have the following meanings:

**Adult-Only Retail Tobacco Store:** An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products or offer of services is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products as required by the Brookfield Board of Health.

**Board of Health:** Town of Brookfield Board of Health and its designated board of health agents.

**Board of Health Agent:** The Director of Public Health and any town employee designated by the Board of Health, which may include board of health staff, law enforcement officers, fire officials and code enforcement officers.

**Business Agent:** An individual who has been designated by the owner or operator of any adult-use marijuana establishment to be the manager or otherwise in charge of said establishment.

Cannabidiol (CBD): One of hundreds of cannabinoids derived from cannabis plants. CBD is nonintoxicating.

Colocated Marijuana Operations (CMO): A Medical Marijuana Treatment Center (MTC) operating under a registration license issued 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: *Adult Use of Marijuana*, on the same Licensed Premises. Colocated marijuana operations pertain to cultivation, product manufacturing, and retail, but not any other adult-use license.

Customer: a consumer or patient who is legally on the premises of a Marijuana Establishment, CMO, or MTC to purchase Marijuana, Marijuana Products, or Marijuana Accessories.

Edible Hemp/CBD products: A hemp or CBD product that is to be consumed by humans by eating or drinking.

Edible Marijuana Products: A marijuana product that is to be consumed by humans by eating or drinking.

Fee: Fee shall mean the Permit cost established by the Brookfield Board of Health's Fee Schedule, which has been assessed in order to support execution of the responsibilities set forth in this Regulation.

Hemp: The plant of the genus cannabis and any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3 per cent on a dry weight basis or per volume or weight of marijuana product or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content, or any product labelled as "Hemp" with the exception of products labelled "hulled hemp seeds", "hemp seed protein" and "hemp seed oil".

Licensed Premises: All land and buildings associated with the operation of the Marijuana Establishment, MTC, or CMO.

Marijuana: All parts of any plant of the genus cannabis, not excepted below, 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 section 1 of chapter 94G of the General Laws. "Marijuana" shall not include 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; hemp; or the weight of any other ingredient combined with adult-use marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Accessories: 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 adult-use marijuana into the human body.

Marijuana Establishment: Any type of marijuana-related business licensed by the Cannabis Control Commission (CCC) pursuant to 935 CMR 500.000, 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).

Marijuana Establishment Operating Permit: A permit issued by the Board of Health, renewed annually for a fee set by the Board of Health, that permits a Marijuana Establishment to operate within the Town of Brookfield. A separate Marijuana Establishment Operating Permit is required for each establishment.

Marijuana Products: Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures, and marijuana-infused products defined in 935 CMR 500.002.

Marijuana Retailer: An entity licensed under the CCC to purchase, repackage, white label, transport, Marijuana or Marijuana Products to from Marijuana Establishments and to sell and or otherwise transfer the same to Customers. Unless authorized by CCC and the Board of Health, Marijuana Retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site consumption on the License Premises of a Marijuana Establishment.

Medical Marijuana Treatment Center (MTC): Formerly known as Registered Marijuana Dispensary. An entity formerly and validly licensed under 935 CMR 501.101, that acquired, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), repackages, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.

Minimum Legal Sales Age: The age an individual must be before that individual can be sold a marijuana product in the municipality.

Operating Permit Holder: Any person engaged in the cultivation, sale, distribution or transportation of marijuana who applies for and receives an operating permit, or any person, or his or her agent, who is required to apply for an operating permit pursuant to these regulations.

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.

Self-Service Display: Any display from which customers may select marijuana or a marijuana-infused product without assistance from an establishment.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes adult-use marijuana products.

**C. Marijuana Sales to Persons Under the Minimum Legal Sales Age Prohibited:**

1. No person shall sell marijuana or marijuana accessories or permit marijuana or marijuana accessories, as defined herein, to be sold to a person under the minimum legal sales age; or give marijuana, marijuana products, or marijuana accessories as defined herein, to a person under the minimum legal sales age with the exception of Registered Qualifying Patients with the Medical Use of Marijuana Program in possession of a Medical Registration Card. The minimum legal sales age in Brookfield is twenty-one (21).
2. Each person selling or distributing marijuana or marijuana products as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth and showing that the purchaser is 21 years of age or older.

**D. Marijuana Operating Permit:**

1. No Person shall sell, cultivate, deliver or otherwise commercially distribute Marijuana or Marijuana Products within the Town of Brookfield without first obtaining a Marijuana Operating Permit issued annually by the Board of Health.
  - a. All applicants shall certify that they are in compliance with all local and state laws, regulations, bylaws and be prepared to show proof of a current and valid license from the CCC if requested.
2. Only owners of Marijuana Establishments with permanent, non-mobile locations in Brookfield are eligible to apply for a Marijuana Operating Permit at the specified location in the Brookfield except:
  - (a) A Marijuana delivery-only Establishment, if authorized and licensed under state regulation, shall not be required to have a permanent, non-mobile location, but shall have an in-state permanent business office address and contact information available. Upon request, the Marijuana Establishment must share information about the current location and destination of its employees with the Board of Health, said information to remain confidential.
  - (b) A Marijuana delivery-only Business, if authorized and licensed as a Medical Marijuana Treatment Center, but shall be required to strictly comply with all state laws and regulations.
3. No Person shall gift Marijuana or Marijuana Products to a consumer contingent upon the sale of any other product.

4. No Person shall accept or redeem, offer to accept or redeem, or cause or hire any Individual to accept or redeem or offer to accept or redeem any coupon that provides any Marijuana or Marijuana Products without charge. Free samples are prohibited.
5. As part of the Marijuana Operating Permit application process, the applicant will be provided with these regulations and the Regulation of Marijuana Establishments to Prevent Nuisance. Each applicant is required to sign a statement declaring that the applicant has read said regulations and that the applicant is responsible for instructing all employees who will be responsible for Marijuana operations regarding state and local laws regarding the sale of Marijuana and these regulations.
6. A separate Marijuana Operating Permit, displayed conspicuously, is required for each Marijuana Establishment. The fee for which is nonrefundable and shall be determined by the Board of Health annually. All Permits unless otherwise established by the Board of Health, expire annually on December 31. Marijuana Operating Permits shall be posted in a conspicuous place at the Licensed Premises.
7. A Marijuana Operating Permit is non-transferable. A new owner of a Marijuana Establishment must apply for a new permit.
8. Issuance of a Marijuana Operating Permit shall be conditioned on an applicant's consent to periodic inspection of the Marijuana Establishment to ensure compliance with this regulation.
9. A Marijuana Operating Permit may be subject to non-renewal if the Marijuana Establishment fails to provide proof of a current license issued by the CCC.
10. A Marijuana Operating Permit will not be renewed if the Operating Permit Holder has failed to pay all fines issued by the Board of Health and the time to appeal the fines has expired and/or the Operating Permit Holder has not satisfied any outstanding Board of Health permit suspensions.
11. A Marijuana Operating Permit may be subject to non-renewal if the Marijuana Establishment has sold Marijuana or Marijuana Products to an Individual under the minimum legal sales age two (2) times within the previous permit year and the time to appeal has expired without an appeal having been filed. The Operating Permit Holder may request a hearing pursuant to this regulation prior to non-renewal. Hearings will be held pursuant to Section M of this Regulation. If a violation was enforced by non-criminal disposition, any appeal shall be taken pursuant to Section 5 of the By-Laws of the Town of Brookfield and G.L. c. 40, §21D.
12. Permissible Entrance.
  - (a) No Individual under the minimum legal sales age shall be permitted to enter a Marijuana Establishment.
  - (b) No Individuals under the minimum legal sales age, except those Individuals in possession of a registration card demonstrating that the Individual is a registered qualifying patient with the Medical Use of Marijuana Program or a

personal caregiver, shall be permitted to enter a Medical Marijuana Treatment Center.

(c) If the Marijuana Establishment is a CMO, then the following shall apply:

- i. If the Individual is between 18 and 21 years of age, (s)he shall not be admitted unless (s)he produces an active patient registration card issued by the CCC.
- ii. If the Individual is younger than 18 years old, (s)he shall not be admitted without an active patient registration card and a personal caregiver with an active patient registration card.
- iii. In addition to the patient registration card, registered qualifying patients 18 years of age and older and personal caregivers must also produce proof of identification.

13. A Marijuana Retailer is prohibited from selling tobacco. A Marijuana Retailer is also prohibited from holding a liquor license or selling or distributing any alcoholic beverage that would require a license under G.L. c. 138.

14. If required by the Massachusetts Department of Environmental Protection (DEP), a Hazardous Waste permit is to be filed with the Board of Health annually.

15. If required, a Wastewater permit and reports are to be filed with the Massachusetts Department of Environmental Protection (DEP)..

**E. Incorporation of 105 CMR 500.000 and 105 CMR 590.000:**

The cultivation and manufacture of all edible Marijuana Products and food products containing Marijuana shall be conducted in a state-licensed marijuana manufacturing facility and in accordance with all applicable state regulations including 105 CMR 500.000, "Good Manufacturing Practices for Food." Marijuana Establishments and Business Agents shall comply with 105 CMR 590.000, "Minimum Sanitation Standards for Food Establishments" relative to edible Marijuana Products.

**F. Incorporation of 935 CMR 500.000, 935 CMR 501.000 and 105 CMR 725.000:**

Marijuana Establishments and Business Agents shall comply with 935 CMR 500.000, 935 CMR 501.000 and 105 CMR 725.000.

**G. Out-of-Package Sales:**

The sale or distribution of edible Marijuana Products in any form other than an original factory- wrapped package is prohibited, including the repackaging or dispensing of any edible Marijuana Product for retail sale

**H. Self-Service Displays**

All self-service displays of Marijuana or Marijuana Products are prohibited.

**I. Vending Machines**

All vending machines containing Marijuana or Marijuana Products are prohibited.

**J. Marijuana Accessories:**

Marijuana Accessories, as defined herein, shall only be sold in Marijuana Establishments and Adult- Only Retail Tobacco Stores.

**K. CBD/Hemp Products and Sales:**

1. No person shall sell CBD or Hemp infused food products, dietary supplements or products that make medical or therapeutic claims (unless already approved by FDA).
  - (a) Any medication approved by the federal Food and Drug Administration, including but not limited to Epidiolex, is exempt from this regulation.

**L. Compliance with All Laws:**

1. All cultivation, processing, manufacturing, delivery, sale and use of Marijuana and Marijuana Products shall be conducted in compliance with all laws, bylaws, regulations or policies applicable to similar activities. This shall include, but not be limited to compliance with food service permit requirements, secondhand smoke regulations, electronic cigarette regulations, nuisance laws and all requirements associated with zoning and other local permitting.
2. The cultivation, processing, manufacturing, delivery, sale and use of Marijuana and Marijuana Products shall not exempt any Person or entity from complying with all state and local laws, bylaws, regulations and policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the fines and penalties described herein. Nothing in this regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.

**M. Enforcement and Penalties:**

1. Authority to inspect Marijuana Establishments for compliance and to enforce this regulation shall be held by the Board of Health, its designees and the Brookfield Police Department. The election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.
2. Any Person may register a complaint under this regulation to initiate an investigation and enforcement by the Board of Health and its designees.
3. It shall be the responsibility of the Operating Permit Holder and/or Business Agent to ensure compliance with all applicable sections of this regulation. Any Marijuana Establishment found to be in violation of the provisions of these regulations may

receive a written warning citation, a fine, a Marijuana Operation Permit suspension, and/or a Marijuana Operation Permit revocation.

4. Any Operating Permit Holder or any Person or entity charged with violation of any provision of this regulation shall receive a notice of violation from the Board of Health or its designated agent. Unless waived by the Operating Permit Holder, the Board of Health shall conduct a hearing to determine the facts of the violation, the appropriate corrective actions, the terms of suspension, if any, and/or issue a permit revocation order.

5. Prior to issuing any suspension or revocation, the Board of Health shall provide notice of the intent to suspend or revoke a permit, which notice shall contain the reasons therefor. The Board of Health will conduct a public hearing, of which the Operating Permit Holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application. The Operating Permit Holder and/or Business Agent shall be responsible for any violations whether they or not they are directly involved in the activity and whether or not they have knowledge of the violation. The Operating Permit Holder shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Board of Health may issue a citation, assess fines, or suspend or revoke the Marijuana Operating Permit if the Board of Health finds that a violation of this regulation occurred. Whoever violates any provisions of this regulation may be penalized by the noncriminal method of disposition as provided in General Laws 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:

First Offense:	\$100
Second Offense:	\$200
Third and Subsequent Offenses:	\$300

6. Each day or portion thereof any violation exists shall be deemed to be a separate offense.

**N. Variances:**

1. A variance from this regulation may be requested in writing to the Board of Health. A variance may be granted by the Board of Health after a hearing at which time the applicant establishes the following:

- (a) Strict enforcement of this regulation would do manifest injustice; and
- (b) The granting of a variance shall not in any way impair the public health and safety or the environment.

2. The Board of Health may impose any conditions, safeguards and other limitations on a variance when it deems it appropriate to protect the public health and safety or the environment.

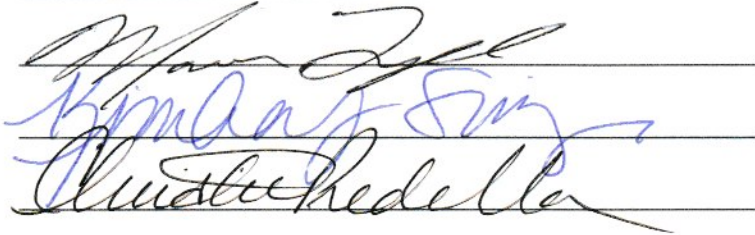
**O. Severability:**

If any provision of this regulation is declared invalid or unenforceable, the provisions shall not be affected thereby but shall continue in full force and effect.

**P. 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.

Signature of the Board of Health

  
The image shows three handwritten signatures in blue ink, each written on a horizontal line. The signatures are cursive and appear to be: 1. A signature that looks like 'M. J. ...', 2. A signature that looks like 'B. ...', and 3. A signature that looks like 'C. ...'.