

Licensure as a Marijuana Establishment

The following guidance is provided to assist applicants seeking to be licensed as a Marijuana Establishment under 935 CMR 500.000, which establishes the regulatory requirements for adult -use marijuana in the Commonwealth. This guidance is not legal advice. If you have additional questions regarding the legal requirements for licensure in the Commonwealth, you are encouraged to consult an attorney.

Applications

The Cannabis Control Commission regulations, 935 CMR 500.000, provide for the issuance of licenses for different kinds of Marijuana Establishments. The license application process for certified priority applicants as either Economic Empowerment Priority Applicants under 935 CMR 500.101(1)(e) or RMD Priority Applicants under 935 CMR 500.101(2), opens on April 17, 2018. Priority applicants may apply for any type of marijuana establishment license.

The application process for applicants who are not certified priority applicants will be scheduled based on the license type as follows:

May 1, 2018

- **Marijuana Cultivator:** an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers;
- **Microbusinesses:** a colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
- **Craft Marijuana Cooperative:** 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 and brand cannabis or marijuana products to transport this product to Marijuana Establishments, but not to consumers.
- **Independent Testing Laboratory:** a laboratory that is licensed by the Commission and is:
 - accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) 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;
 - independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
 - qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.
- **Research Facility:** an entity licensed to engage in research projects by the Commission.

June 1, 2018

- **Marijuana Retailer:** an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.
- **Marijuana Product Manufacturer:** an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.
- **Marijuana Transporter:** an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers.

How do I start?

All applications will be available for completion online through the Cannabis Control Commission's [licensing portal](#). As with any application, a good place to start is getting an overview of what information you will need to complete the application, and then collecting the information.

The Commission has intentionally broken up the application into three sections, or what we refer to as "packets." The packets may be completed on a rolling basis. As such, applicants have the opportunity to open an application and save it so that they may work on the application over a period of time. Before the Commission will consider a license application, all three packets must be determined to be complete by the Commission. The applicant will be notified by the Commission when each packet is determined to be complete.

Applicants should be prepared to complete an open application within one year of starting the application. The Commission reserves the right to administratively close applications that remain open beyond one year.

What information do I need to submit an application to be licensed?

The Commission has established a compliance-based licensing process with no limit on the total number of licenses for Marijuana Establishments that the Commission may issue. As such, applicants for licensure are not competing against each other to obtain a license. Rather, each applicant is required to submit the same information, and each application will be evaluated on whether the information complies with the requirements set forth in the Commission's regulations, 935 CMR 500.000.

Each of the three packets that make up the Marijuana Establishment license application require different pieces of information that are intended to provide the Commission with relevant facts about the applicant(s) and the Marijuana Establishment the applicant(s) plan to operate. The Commission's regulations seek to capture business information that has likely been part of an applicants' thought process as they've considered operating a business. It is the Commission's hope that applicants that are thoughtful in collecting and submitting the information needed to apply for a license will setting themselves up for long-term success.

Certain applicants may be eligible for assistance preparing the license application through the Commission's Social Equity Program established in 935 CMR 500.105(17). Additional information about the eligibility criteria to participate in the Social Equity Program may be found in the document [Guidance: Summary of Equity Provisions](#).

Packet 1: Application of Intent

The Application of Intent packet is intended to provide the Commission with information about the Marijuana Establishment, including:

- **Who is the marijuana-establishment applicant?**
 - The applicant may be an individual or several individuals. Individuals required to be named in the application include executives, managers, and close associates, as well as any person or entity who will contribute 10% of more of the initial capital to operate the Marijuana Establishment. The list must include any individual with direct or indirect authority over business policies, cultivation operations or security operations because these are individuals the Commission is likely to interact with over the term of the license. Individuals listed on the application also must disclose their individual interest in any Marijuana Establishment application for licensure or licensee, as well as their past or present business interests, including marijuana-related business interests, in other states.
- **How is the business organized?**
 - Applicants must provide proof that the business is registered to do business in Massachusetts. Certificates providing proof of business incorporation may be requested online from the Corporations Division of the Secretary of the Commonwealth of Massachusetts at <http://www.sec.state.ma.us>. Please note that as part of the third packet, or the Management and Operations Profile, applicants will need to provide a copy of the articles or organization and bylaws, as well as certificates of good standing from the Massachusetts Department of Revenue and the Corporations Division of the Secretary of the Commonwealth's office.
- **How will the Marijuana Establishment be funded?**
 - Applicants are required to document the amounts and sources of capital that will be used to fund the Marijuana Establishment, and certify that all funds used to invest in or finance the Marijuana Establishment were or will be lawfully obtained. They are not required to provide proof of a specific amount of available funding to operate the establishment.
 - Applicants must also show access to adequate funding to dismantle and wind down a Marijuana Establishment. This may be shown by providing proof of a financial guarantee bond or other escrowed amount of money. Massachusetts does not require a financial guarantee bond or escrow funds in a specific amount. However, the applicant will be required to explain why the amount is adequate to dismantle and wind down the particular Marijuana Establishment.

Notice: Documents provided to the Commission must not contain banking account numbers.

- **Where will the Marijuana Establishment be located?**

- Applicants must provide proof that they have a legal interest in the property where the establishment will be located. This property interest may be shown by providing any of the following:
 - a copy of the title to the property;
 - a copy of a lease;
 - an option to purchase the site;
 - a copy of a legally enforceable agreement to give title to the property; or
 - other binding permission to use the premises.
- In addition, applicants must provide certain documentation that indicates a working relationship, including a host-community agreement, between the applicant and the community in which the Marijuana Establishment is proposed. The required documentation includes:
 - a [single-page certification form](#), available on the Commission’s website, showing that a host-community agreement has been reached between the municipality and the applicant;
 - a [single-page certification form](#) showing that the applicant has conducted a [community-outreach meeting](#) within the six months before submitting the application; and
 - a description by the applicant of plans to ensure that the Marijuana Establishment is or will be compliant with the community’s local laws, including codes, ordinances or by-laws.

- **What other important information is needed?**

- One of the Commission’s priorities as the regulatory agency with responsibility for Marijuana Establishments is having an ongoing positive impact on communities.
 - Plan for Areas of Disproportionate Impact: Accordingly, applicants are required to provide a plan to positively impact [areas of disproportionate impact](#). An “area of disproportionate impact” is defined as “a geographic area, identified by the Commission, which has had historically high rates of arrest, conviction, and incarceration related to marijuana crimes.”
- In addition, certain categories of license must provide other information specific to that license as part of the Application of Intent. This includes:
 - Microbusinesses: applicants must provide evidence that a majority of its executives have resided within the Commonwealth for a period of 12 consecutive months prior to application; and
 - Craft Cooperatives: evidence that all of its members have established residency within the Commonwealth for a period of 12 consecutive months prior to application; evidence of the cooperative’s organization as a limited liability company or a limited liability partnership, or a cooperative cooperation under the laws of the Commonwealth; evidence that at least one member of the cooperative filed a Schedule F income tax form within the past five years; and evidence that the cooperative is organized consistent with the Seven Cooperative Principles established by the International Cooperative Alliance.

Packet 2: Background Check

The Commission is required to make a determination of suitability for licensure for each applicant. As part of the suitability determination, the Commission will perform a review, for each individual listed on the application, of the individual's background. Background checks will include, but not be limited to, a review of Massachusetts' and national criminal database records; Massachusetts' and national civil database records, including professional and occupational records; involvement in other marijuana-related businesses; and actions taken against any license or registration. Applicants are not required to provide information about any conviction that has been sealed or expunged by court order.

Individuals listed on the application for licensure are required to provide a notarized Massachusetts CORI Acknowledgment Form as well as authorization to obtain a full set of fingerprints. Individuals listed on the application will be notified of the process for providing a full set of fingerprints after the completed form is received. In addition, each individual listed on the application must tell the Commission about the individual's involvement, and the involvement of an entity owned or controlled in whole or in part by the individual, in criminal or civil actions, including:

- A description of any criminal action, whether felony or misdemeanor, that resulted in a conviction, guilty plea, plea of nolo contendere or admission of sufficient facts, in any jurisdiction, Massachusetts or otherwise;
- A description of any civil action, including actions related to a professional, occupational, or fraudulent practice, in any jurisdiction;
- A description of any administrative action, including actions related to a medical or adult-use marijuana operation, in any jurisdiction;
- A description of disciplinary action taken in any jurisdiction against a license, registration, or certification held by the entity or individual, such as a suspension or revocation;
- A description of any license denial in any jurisdiction; and
- A description of any action taken against a license to prescribe or distribute controlled substances, if applicable.

Notice: A complete description of the required background-check information is set forth in 935 CMR 500.101(1)(b)3.

Packet 3: Management and Operations Profile

The Management and Operations Profile packet is intended to provide the Commission with a snapshot of the applicants' approach to operating the Marijuana Establishment. The information required as part of this packet is an indicator that the applicant understands the legal requirements, including the Commission's regulations, and is able to operate in a lawful manner.

What, if any, specific business documents do I need to provide?

Applicants for licensure must provide a copy of the articles of organization and bylaws; a [certificate of good standing](#) from the Corporations Division of the Secretary of the Commonwealth's office; and [a certificate of good standing or certificate of tax compliance from the Department of Revenue](#). The Commission also requires

applicants to submit a summary of their business plan, including staffing and training plans, and a timeline for opening the establishment.

Do I need to show proof of insurance?

No, applicants do not need to show proof of insurance at the time the application is submitted, although they are not discouraged from doing so if they are able. Applicants do need to tell the Commission about your plan to obtain general liability insurance or otherwise meet the insurance requirements spelled out in 935 CMR 500.105(10). All operational Marijuana Establishments are required to have insurance or, if unable to obtain the minimum coverage, place money in escrow to cover any liabilities.

Do I need to tell the Commission who I will be employing as part of the application?

No, applicants do not need to provide the names of anticipated employees at the time of application, although they are not discouraged from doing so if they are able. Applicants do need to provide a staffing plan, which includes a description of the types of jobs or positions that will be held by marijuana agents, and what the qualifications are for these jobs or positions. In addition, applicants need to tell the Commission how they intend to train their employees.

Do I need to provide internal policies and procedures to the Commission as part of the licensing process?

- Applicants are required to provide detailed summaries of the policies and procedures that they intend to function under as a Marijuana Establishment. The Commission wants to be sure that applicants have read and understand the regulations that licensees are required to comply with, and that they are prepared to put them into practice. Applicants are required to provide summaries of the following:
 - Security plans and procedures;
 - Plans to prevent the diversion of marijuana products;
 - Plans to store marijuana products;
 - Transportation plans, if applicable, or indicate why it is not applicable;
 - Inventory procedures;
 - Quality control and contaminant testing procedures, as applicable under license type;
 - Personnel policies;
 - Dispensing procedures;
 - Record-keeping procedures;
 - Policies and procedures for maintaining financial records; and
 - Diversity plans to promote equity among women, minorities, veterans, people with disabilities, and people of all gender identities and sexual orientation.
- In addition, certain categories of license must provide other information specific to that license. This includes:
 - Retailers: a description of the retail applicant's plan to obtain marijuana products from a licensed Marijuana Establishment;
 - Cultivators: an operational plan, including policies and procedures, for the cultivation of marijuana; and
 - Product Manufacturers: descriptions of the types of marijuana products planned for manufacture, methods of production and a sample of any unique identifying mark or branding that the applicant anticipates including on the products.

I am a certified priority applicant. Is there a special process for me?

- The Commission will collect the same information from priority applicants as non-priority applicants. However, the Commission’s regulations identify two categories of applicant who will receive priority review status by the Commission as required by [St. 2017, c. 55, An Act to Ensure Safe Access to Marijuana](#): applicants that qualify under 935 CMR 500.101(1)(e) as Economic Empowerment Priority Applicants and applicants that qualify under 935 CMR 500.101(2)(a), as existing Registered Medical Dispensary (“RMD”) Priority Applicants. By law, priority applicants must have applied to the Commission as qualifying for priority status between April 1-April 15, 2018.

If you are a certified priority applicant, the Commission will issue you an identifying number. This number should be used when you file your license application, regardless of when you file it, because it tells the Commission you are a certified priority applicant. As a certified priority applicant, your application will be reviewed by the Commission before applications that are not filed by certified priority applicants, regardless of when you file it. So, retain your identifying number and use it.

How will my application be reviewed?

- Before the Commission will consider whether to grant or deny a license, all three packets must be determined to be complete by the Commission. The individual listed as the contact person for the applicant will receive an email from a representative of the Commission when each packet is determined to be complete, and again when the full application is determined to be complete and time-stamped by the Commission.

Applications for priority applicants will be accepted on April 17, 2018, and reviewed on an alternating basis. Priority applicants will retain their priority review status, even if they wait to apply after the license review process opens to all applicants on May 1, 2018 and June 1, 2018. The review status will remain in effect until the Commission promulgates a regulation or establishes a policy or procedure to the contrary.

Applications submitted by certified priority applicants will be reviewed first, alternating between the two categories of priority applicant, beginning with the first-in-time application from either an Economic Empowerment Priority Applicant or an RMD Priority Applicant and moving on to applications from non-priority applicants when there are no additional priority applications ready for review.

Applications will be evaluated based on:

- How completely the applicant responded to the required criteria in the application;
- The applicant’s compliance or ability to comply with Massachusetts laws and regulations, particularly 935 CMR 500.000; and
- The applicant’s suitability for licensure based on 935 CMR 500.101(1), 500.800 and 500.801, which takes into consideration the suitability of any individual person listed on the application.

A Marijuana Establishment is required to comply with the laws of the municipality in which the applicant wishes to locate. The regulations require that the complete application will also be sent to the municipality in which the Marijuana Establishment will operate its business. The municipality will be asked to respond to the Commission, within 60 days, whether the proposed Marijuana Establishment is in compliance with local bylaws and ordinances, including but not limited to zoning bylaws.

The Commission has 90 days from the date it determines that the application is complete in which to either grant a provisional license or deny a license based upon the application submitted by the applicant. The municipal response occurs within this 90-day period.

Denials of licensure will state the reason for the denial. Provisional licenses will include conditions that the applicant must satisfy to receive a final license. One condition that any applicant receiving a provisional license should be prepared for is an architectural plan review followed by a scheduled physical inspection of the premises on which the Marijuana Establishment will be located by the licensing and inspectional staff of the Commission.

When may I open for business?

- Once you receive a final license. Before the issuance of a final license the applicant must provide the Commission with any information not available at the time of initial application requested by the Commission and undergo an inspection. The applicant must also pay the required license fee. Final licenses may be subject to reasonable conditions. The final license must be prominently displayed on the premises of the Marijuana Establishment. A license expires one year from the date of issuance. A license will not be reviewed automatically, and the applicant must apply for renewal.

When will applications be available?

- License/Certification Application Timeline
 - April 2 at noon:
 - Begin certification application for priority applicants
 - Registered Marijuana Dispensaries Priority Applicants
 - Economic Empowerment Priority Applicants
 - April 17:
 - Begin accepting license applications from certified priority applicants
 - All license types available for priority applicants
 - May 1:
 - Open applications for:
 - Cultivation
 - Microbusiness
 - Craft Cooperatives
 - Independent Testing Labs
 - Lab Agents

- June 1:
 - Open applications for:
 - Retail
 - Product Manufacturers
 - Transport

Questions?

If you have additional questions regarding types of Marijuana Establishments, please contact the Commission at CannabisCommission@State.MA.US or (617) 701-8400.