

ORDINANCE NO. 1687

CITY OF WESTFIELD

IN CITY COUNCIL,

July 5, 2018

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF WESTFIELD, ADOPTED JUNE 17, 1993.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS

Replace Article VII (Controlled Substances and Medical Marijuana) of Chapter 8, Health & Environmental Regulations, with the following:

ARTICLE VII. – MARIJUANA

Sec. 8-168. - Purpose.

The purpose and intent of this ordinance is to protect the public health and insure that the sanctioned presence and use of marijuana (*Cannabis sativa*) is properly integrated with the public welfare. This article is not intended, nor shall it be construed, to apply to industrial hemp or hemp products.

Sec. 8-169. - Authority.

This article is adopted pursuant to Chapter 369 of the Acts of 2012, Chapter 334 of the Acts of 2016 and G.L. c.94G of the Commonwealth and regulations promulgated by the Massachusetts Department of Public Health, 105 CMR 725.000 and Cannabis Control Commission, 935 CMR 500. The Board of Health may promulgate any additional rule or regulation concerning the administration of this ordinance provided it is not inconsistent with aforementioned provisions.

Sec. 8-170. – Limitation on the Quantity of Marijuana Retailers.

No marijuana facility shall be allowed to operate within the City if such facility would cause the quantity of Marijuana Retailers, as defined by the Cannabis Control Commission, to exceed the greater of four (4) or 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, except that for calculation purposes fractions shall be rounded up to the next whole number.

Sec. 8-171. - Prohibition of Marijuana in certain locations.

No person shall consume, display, nor cause odors to emit from, marijuana in any form nor any accessory device associated with same, within, into or visible from any street, sidewalk, way in which the general public is afforded access, nor on or in any city owned, operated, or leased buildings or lands.

Sec. 8-172. – Regulation of Accessory Devices.

No appliance or accessory device customarily intended specifically for use in the application or administration of marijuana shall be displayed for sale to consumers except in a manner consistent with regulations of the Board of Health, who may impose limits on shelf space and restrict visual and physical access to such items from minors.

Sec. 8-173. –Performance Standards.

A Registered Marijuana Dispensary, Medical Marijuana Treatment Center, Marijuana Shop, Marijuana Retailer, Marijuana Production Operation, Marijuana Cultivator or similar facility wherein marijuana, in any form or product, is present shall comply with the following standards.

- (1) No facility shall acquire, cultivate, possess, process, transfer, transport, sell, distribute, dispense, or administer marijuana, or products containing marijuana, unless possessing a valid and current registration issued by the Massachusetts Department of Public Health and/or Cannabis Control Commission, where required.
- (2) Each facility operating as of January 1st shall maintain a valid local registration with the Board of Health by submission of an annual report not later than January 31st, which shall consist of a copy of all current applicable state licenses for the facility, personnel contact information and demonstrated compliance with any conditions of operation. Any changes of ownership or management staff shall be reported within 30 days.
- (3) All such facilities shall be ventilated in such a manner that:
 - a. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere
 - b. Any return air exhausted to the outside shall be passed through commercially available odor scrubbers.
- (4) All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must be fully enclosed and shall not be visible from the exterior of the building or delivery vehicle. No materials shall be stored out-of-doors.
- (5) No public access to any facility, retail sales or other consumer distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 9:00 p.m. and 7:00 a.m.
- (6) On-site use or consumption of marijuana is prohibited.
- (7) No facility shall be permitted to sell Massachusetts lottery tickets, alcohol, tobacco products or nicotine delivery products.
- (8) The provisions of Section 8-171 shall be clearly posted within any publicly accessible facility under a title having text not less than one inch in height and reading “City of Westfield Ordinance Sec. 8-171”

Sec. 8-174. – Enforcement & Penalty.

- (a) This article shall be enforced by the Westfield Police Department and Westfield Health Department or authorized designees thereof.
- (b) Any person who violates this ordinance shall be subject to a fine of \$500.00 for the first violation, and \$1,000.00 for a second violation and each subsequent violation that occurs within one year of any prior violation, or by revocation of the facility’s local registration

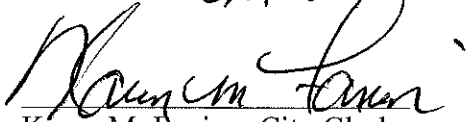
- by the Board of Health. Each instance or each calendar day of a violation shall constitute a separate offense.
- (c) Violations of this article shall, in accordance with the Code of Ordinances of the City Section 1-9.1 and Chapter 40 § 21D of the Massachusetts General Laws, be disposed of by Non-Criminal Disposition.
 - (d) The authority enforcing this ordinance may use discretion on a case-by-case basis to issue a warning without fine for a first offense.

Sec. 8-175. - Severability.

If any clause, section, or other part of this article shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this article shall not be affected thereby but shall remain in full force and effect.

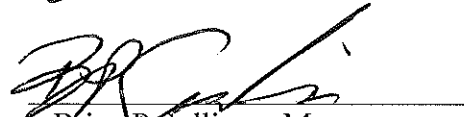
Presented to the Mayor

For approval Oct 2, 2018


Karen M. Fanion, City Clerk

Approved by the Mayor

Oct 2, 2018


Brian P. Sullivan, Mayor

Ordinance No. 1687

AN ORDINANCE AMENDING THE CODE
OF ORDINANCES, REPLACING ARTICLE VII
(CONTROLLED SUBSTANCES AND MEDICAL
MARIJUANA) OF CHAPTER 8, HEALTH &
ENVIRONMENTAL REGULATIONS, WITH
ARTICLE VII. MARIJUANA

In City Council, July 5, 2018
Given First Reading, July 5, 2018
Passed to Second Reading, July 5, 2018
First Publication, August 6, 2018
Given Second Reading, September 20, 2018
Passed to be Ordained, September 20, 2018
Approved by the Mayor, October 2, 2018