



# Guidance for Farmers

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Massachusetts Cannabis Control Commission

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The following guidance is to assist farmers with Cannabis Control Commission regulatory compliance. It is not legal advice. If you have additional questions regarding the legal requirements for cultivating marijuana in the Commonwealth, you are encouraged to consult an attorney.



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## I. License Types for Cultivating Adult-Use Marijuana

There are three types of adult-use cannabis licenses that allow someone to cultivate marijuana in Massachusetts: Marijuana Cultivator, Craft Marijuana Cooperative, and Microbusiness licenses. A description of each follows below.

### Marijuana Cultivator

A Marijuana Cultivator may cultivate, process, and package marijuana to transfer marijuana to another Marijuana Establishment (ME), but not directly to consumers. When applying for a license from the Cannabis Control Commission (Commission), cultivators must select the size of the canopy they will cultivate, or under which tier they will grow marijuana. Canopy is an area calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain flowering and/or vegetative plants that are larger than eight (8) inches tall and eight (8) inches wide at any point in time. The available tiers are:

Tier	Canopy Size Allowed
1	up to 5,000 square feet (sq. ft.)
2	5,001 to 10,000 sq. ft.
3	10,001 to 20,000 sq. ft.
4	20,001 to 30,000 sq. ft.
5	30,001 to 40,000 sq. ft.
6	40,001 to 50,000 sq. ft.
7	50,001 to 60,000 sq. ft.
8	60,001 to 70,000 sq. ft.
9	70,001 to 80,000 sq. ft.
10	80,001 to 90,000 sq. ft.
11	90,001 to 100,000 sq. ft.



### **Craft Marijuana Cooperative**

A Craft Marijuana Cooperative may cultivate, obtain, manufacture, process, package, brand, and transfer marijuana or marijuana products to MEs, but not to consumers.

This license is not limited to a particular number of cultivation locations. However, Craft Marijuana Cooperatives are limited to a total canopy of 100,000 square feet and no more than three (3) locations for activities authorized for Marijuana Product Manufacturers. A Craft Marijuana Cooperative must operate according to the seven (7) cooperative principles published by the International Cooperative Alliance in 1995

(<https://www.ica.coop/en/cooperatives/cooperative-identity>).

### **Microbusiness**

A Microbusiness can operate as a Tier 1 Marijuana Cultivator, a Marijuana Product Manufacturer, or both. A Marijuana Product Manufacturer Microbusiness cannot purchase more than 2,000 pounds of marijuana from other MEs in one (1) year.

These licensees may not be a Person or Entity Having Direct or Indirect Control—as defined in regulation 935 CMR 500.002—for any other ME except a Social Consumption Establishment. A majority of the Microbusiness' executives<sup>1</sup> or members<sup>2</sup> must have been residents of Massachusetts for no less than 12 months prior to submitting their application to the Commission. A Microbusiness may apply for a Delivery Endorsement, which would allow it to sell and deliver marijuana or marijuana products that were produced at its licensed location directly to consumers.



## II. License Fees

The Commission’s application and license fees are provided in 935 CMR 500.005(1)(d). There are reduced fees for outdoor cultivation, which is defined as “the cultivation of mature cannabis without the use of artificial lighting in the canopy area at any point in time. Artificial lighting is permissible only to maintain immature or vegetative mother plants.”

License Types	Application Fees (Indoor/Outdoor)	Annual License Fee (Indoor/Outdoor)
Marijuana Cultivator (Indoor or Outdoor)		
Tier 1: up to 5,000 square feet	\$200 (I)/\$100 (O)	\$1,250 (I)/\$625 (O)
Tier 2: 5,001 to 10,000 sq. ft.	\$400 (I)/\$200 (O)	\$2,500 (I)/\$1,250 (O)
Tier 3: 10,001 to 20,000 sq. ft.	\$600 (I)/\$300 (O)	\$5,000 (I)/\$2,500 (O)
Tier 4: 20,001 to 30,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$20,000 (I)/\$10,000 (O)
Tier 5: 30,001 to 40,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$22,500 (I)/\$11,250 (O)
Tier 6: 40,001 to 50,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$25,000 (I)/\$12,500 (O)
Tier 7: 50,001 to 60,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$30,000 (I)/\$15,000 (O)
Tier 8: 60,001 to 70,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$35,000 (I)/\$17,500 (O)
Tier 9: 70,001 to 80,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$40,000 (I)/\$20,000 (O)
Tier 10: 80,001 to 90,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$45,000 (I)/\$22,500 (O)
Tier 11: 90,001 to 100,000 sq. ft.	\$2,000 (I)/\$1,500 (O)	\$50,000 (I)/\$25,000 (O)
Craft Marijuana Cooperative	Total fees for its Canopy. If more than six locations, add \$200 (I)/\$100(O) per additional location.	Total fees for its Canopy. If more than six locations, add \$1,250(I)/\$625(O) per additional location.
Microbusiness	\$0	50% of all applicable license fees.



### III. Plant Tagging and Seed-to-Sale Tracking

All MEs must track marijuana from seed to sale using an interoperable database, as well as plant and package radio-frequency identification (RFID) tags. The Commonwealth's system of record, Metrc, also charges a monthly software program fee of \$40 per month for each ME. The monthly software program fee is waived for Certified Economic Empowerment Priority Applicants, Social Equity Program Participants, Certified Minority-, Women-, and Veteran-owned Businesses, Craft Marijuana Cooperatives, and Microbusinesses.

### IV. Increasing and Decreasing Canopy Size or Tier

Marijuana Cultivators and Craft Marijuana Cooperatives may submit to the Commission an application to change the tier in which they are classified, but Microbusinesses are limited to cultivating under Tier 1. Additionally, once provisionally licensed, a business may voluntarily relegate its tier to decrease the size of its marijuana grow. However, if a licensee requests to increase their tier size, they must demonstrate to the Commission that it has consistently sold 85% of its product while operating at the top of its tier during the six (6) months prior to the request. Therefore, Marijuana Cultivator and Craft Marijuana Cooperative applicants should ensure the tier they choose is appropriate for their business, because they may not be able to expand their canopy until at least six (6) months after receiving a notice to commence operations from the Commission.

When applying to renew a Marijuana Cultivator or Craft Marijuana Cooperative license, the Commission will review the licensee's records. The Commission may reduce an indoor Marijuana Cultivator's tier if the licensee sold less than 70% of what it produced during the six (6) months prior to submitting the renewal application. An outdoor Marijuana Cultivator may see its tier reduced if it sold less than 70% of what they produced during the harvest season prior to submitting the renewal application. Some factors that the Commission may consider when reducing a licensee's tier include:

- Cultivation and production history, including any catastrophic events affecting the plants/inventory that may have occurred during the licensing period;
- Transfer, sales, and excise tax payment history;
- Existing inventory and inventory history;
- Sales contracts; and
- Any other factors relevant to ensuring responsible cultivation, production, and inventory management.



## V. Application and Licensure Processes

The Commission has issued an updated [Guidance on Licensure](#). This document provides general information about license application requirements, the process for obtaining a license, and the requirements for renewing a license. Please refer to the [Guidance on Licensure](#) if you have questions about obtaining or renewing a license.

## VI. Frequently Asked Questions

### 1. Does the agricultural exemption in the Zoning Act apply to the cultivation of cannabis or marijuana?

No. The agricultural exemption in the Zoning Act, which discusses the cultivation of marijuana, expressly excludes the cultivation of marijuana from this protection:

For the purposes of this section, the term “agriculture” shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof; provided, however, that the terms agriculture, aquaculture, floriculture and horticulture shall not include the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the acts of 2012, marihuana as defined in section 1 of chapter 94C or marijuana or marihuana as defined in section 1 of chapter 94G.

G.L. c.40A § 3 (emphasis added). Farmers may wish to check the definition of “agriculture” in their local zoning bylaw or ordinance regarding whether it excludes marijuana cultivation or contact their local building inspector or zoning enforcement officer.

### 2. In a Right-to-Farm town, is marijuana cultivation exempted from local restrictions?

A Right-to-Farm bylaw does not typically confer any additional protections from local zoning and licensing restrictions. Instead, it notifies purchasers of property in the town that it is the policy of the town to protect agriculture and provides a means of dispute resolution, while reiterating the protections existing in state law for agriculture. As stated above, the cultivation of marijuana is not protected under the exemption for agriculture in the Zoning Act, but may otherwise be allowed in your community. Farmers may wish to check their local zoning bylaw or ordinance or contact their local building inspector or zoning enforcement officer.



**3. How do I find out whether my property is zoned to allow marijuana cultivation?**

You may review your local zoning bylaws or ordinances, which are often available online, or you can ask your local building inspector or zoning enforcement officer.

**4. If my property is Chapter 61A land, may I use it to cultivate adult-use marijuana for sale?**

Farmers should confer with their local Board of Assessors as to whether the cultivation of marijuana is authorized as an agricultural or horticultural use on their Chapter 61A land.

**5. If my property is subject to an Agricultural Preservation Restriction (APR), may I use it to cultivate marijuana, if licensed?**

Farmers should determine the type of APR they have. If it is an APR regulated by [330 CMR 22.00](#) and administered by Massachusetts Division of Agricultural Resources (MDAR), the farmer may need to get approval from MDAR and/or the municipality, if it is a co-holder of the deed restriction, prior to engaging in the cultivation of marijuana. Similarly, if the APR is held by a conservation organization or municipality, the farmer may need to determine whether the cultivation of marijuana and related activity, such as the construction of structures, is considered permissible under the deed restriction. Farmers are encouraged to seek legal advice. More information on APRs may be found here: <https://www.mass.gov/service-details/agricultural-preservation-restriction-apr-program-details>.

**6. May I use pesticides in the cultivation of marijuana?**

No. Currently, the Environmental Protection Agency (EPA) does not allow the use of a registered pesticide on marijuana.

MDAR has jurisdiction over pesticides, including the authority to register products not registered by the EPA, but it does not authorize any pesticides for marijuana cultivation at this time. For more information, please consult MDAR's pesticide policy for the cultivation of marijuana within the Commonwealth, at [https://www.mass.gov/files/documents/2018/09/28/MA\\_Cannabis\\_Pesticide\\_Policy.pdf](https://www.mass.gov/files/documents/2018/09/28/MA_Cannabis_Pesticide_Policy.pdf).

There are products that the EPA exempts from registration requirements, as the products or the ingredients within them are considered minimum risk by the EPA. Please refer to the EPA's website to find more information about products and ingredients that may be exempt from registration requirements: <https://www.epa.gov/minimum-risk-pesticides>.



While the exempt products may offer a possible alternative for pest control, it is important to understand that the use of any product is done at the risk of the cultivator and without the benefit of review and testing by the EPA to determine health and safety or other impacts. MEs will be inspected, and marijuana and marijuana products will be tested by the Commission and MDAR for the presence of pesticides. If a pesticide is used in violation of Massachusetts laws on cannabis, the Commission and MDAR may take proper enforcement action.

The Commission also offers farmers [Guidance on Integrated Pest Management](#).

**7. Can I operate as a Community Supported Agriculture (CSA) operation?**

A CSA should comply with all applicable regulations regarding seed-to-sale tracking, security, and background checks, and even volunteers need to be registered as ME Agents, particularly if they have access to marijuana and marijuana products. Please review the [adult-use regulations](#) carefully to determine whether a CSA could be operated in a way that is compliant with the law and regulations. Farmers are encouraged to seek legal advice.

**8. If I receive federal services, such as loans, grants, or nutrient planning services, may I cultivate marijuana on my property?**

Farmers are strongly advised to check with the appropriate federal government agencies prior to cultivating marijuana. Farmers may find that federal services may be withheld, even for non-marijuana crops, if a farmer engages in marijuana cultivation on their property. Farmers are also advised to consult with an attorney, if appropriate.

**9. I hire seasonal help on my farm and the workers are usually under 21 years of age. Can they work with marijuana or marijuana products?**

No. Only persons 21 years of age or older may work on the premises of an ME. That means that not only are they restricted from working on marijuana or marijuana products, but also cannot work on other crops grown on the same premises.

**10. If I have a Craft Marijuana Cooperative with cultivation sites in multiple towns, do I need a Host Community Agreement and community outreach meeting for each town with a cultivation site?**

Yes.



**11. Once I have been issued a Craft Marijuana Cooperative license for certain locations, may I add more locations?**

Yes, but you will have to apply for approval from the Commission for the change. Among other things, you will be required to show that you have done a community outreach meeting and have a Host Community Agreement. Please note that the amount of canopy square footage is calculated based on the total of all locations, and a Craft Marijuana Cooperative may not exceed the 100,000 square foot limit on total canopy area.

**Questions?**

If you have additional questions regarding marijuana cultivation regulations, please contact the Commission at [Commission@CCCMass.com](mailto:Commission@CCCMass.com) or (774) 415-0200.

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<sup>1</sup> “Executive” means members of the board of directors, executive officers, executive director, manager, or their equivalent, of an ME, Medical Marijuana Treatment Center (MTC), or Independent Testing Laboratory. 935 CMR 500.002.

<sup>2</sup> “Member” means a member of a nonprofit entity incorporated pursuant to M.G.L. c. 180. 935 CMR 500.002.

