

Model Host Community Agreement Template

PUBLIC COMMENT

Please note: the Cannabis Control Commission is accepting public comments in response to this template (Model Host Community Agreement) from January 17, 2024 through January 31, 2024 at 5 p.m. All public comment submissions should be emailed to Commission@CCCMass.com with the subject line “Model HCA Public Comment”.

Disclaimer: Pursuant to M.G.L. c. 94G § 4(a), the Commission is authorized to review, regulate, enforce, and approve Host Community Agreements (“HCA”) and to develop this Model HCA. An HCA submitted by a License Applicant, Marijuana Establishment, and/or Medical Marijuana Treatment Center which is determined to conform with this document will be presumed compliant with applicable laws and regulations. While this template is a contractual tool for end users, it should not be interpreted or taken as the Commission providing legal advice. Prior to executing this document, or if you have additional questions regarding the legal requirements for Host Community Agreements, you are encouraged to consult with an attorney.

HOST COMMUNITY AGREEMENT

Between

[MUNICIPALITY]

And

[COMPANY NAME]

This Host Community Agreement (“Agreement”) is entered into and executed this [DAY] day of [MONTH], [YEAR] by and between [COMPANY NAME], a business entity certified and recorded with the Massachusetts Secretary of the Commonwealth (the “Company”) applying for and/or currently holding a license issued by the Cannabis Control Commission (the “Commission”) and the Municipality of [MUNICIPALITY] (“the Municipality”).

WHEREAS, the Company is applying for a Commission license (the “Applicant”) and/or is currently licensed by the Commission as a Marijuana Establishment(s) or Medical Marijuana Treatment Center(s) (the “Licensee”), and is located within or plans to locate within the Municipality;

WHEREAS, the Company shall comply with all applicable state laws and regulations, including, but not limited to G.L. c. 94G, G.L. c. 94I, 935 CMR 500.000 *et seq.*, and 935 CMR 501.000 *et seq.*, as applicable, and such approvals as may be issued by the Municipality in accordance with its local zoning, laws, bylaws, or ordinances, as may be amended;

WHEREAS, the Company and the Municipality (collectively, the “Parties”) intend by executing this Agreement to comply and satisfy the provisions of G.L. c. 94G, § 3(d), as applicable to the licensed operation(s) of the Marijuana Establishment and/or Medical Marijuana Treatment Center, with such operations to be done in accordance with applicable zoning, laws, bylaws, or ordinances of the Municipality; and

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Terms.**

Where applicable, the following terms shall hold the same meaning and definitions as defined by the Commission in 935 CMR 500.000 *et. seq* and 935 CMR 501.000 *et seq.*, as applicable:

- a) Marijuana Establishment (ME) means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness,

Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Marijuana Delivery Operator, Marijuana Courier, Marijuana Research Facility Licensee (as defined in 935 CMR 500.002: Marijuana Research Facility Licensee), Social Consumption Establishment (as defined in 935 CMR 500.002: Social Consumption Establishment), or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

- b) Medical Marijuana Treatment Center (MTC) means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.
- c) Final License means a certificate of final licensure issued by the Commission pursuant to its authority under G.L. c. 94G.
- d) Community Impact Fee (CIF) means impact fee(s) claimed by the Municipality which have been certified by the Commission or ruled upon by a court of competent jurisdiction as being Reasonably Related to the actual costs imposed by the Company.
- e) Reasonably Related means a demonstrable nexus between the actual operations of a ME or MTC and an enhanced need for a Municipality's goods or services in order to offset the impact of operations. Fees customarily imposed on other non-marijuana businesses operating in a Municipality shall not be considered Reasonably Related.

Should there be a conflict between these definitions and those contained in 935 CMR 500.000 *et seq.* and/or 935 CMR 501.000 *et seq.*, the Commission's regulations shall control. Additionally, any term used in this Agreement but not identified and defined in this section shall hold the same meaning and definition as so defined in the Commission's regulations.

2. Authorized Operations.

The Parties stipulate that this Agreement provides permission for the Company to apply for, obtain, and operate the following selected license type(s) within the Municipality:

- Medical Marijuana Treatment Center
- Marijuana Cultivator (Indoor)
- Marijuana Cultivator (Outdoor)
- Marijuana Product Manufacturer
- Marijuana Retailer
- Marijuana Microbusiness (Indoor Cultivation & Product Manufacturing)
- Marijuana Microbusiness (Outdoor Cultivation & Product Manufacturing)

- Marijuana Microbusiness (Indoor Cultivation only)
- Marijuana Microbusiness (Outdoor Cultivation only)
- Marijuana Microbusiness (Product Manufacturing only)
- Marijuana Microbusiness (with Delivery Endorsement)
- Craft Marijuana Cooperative
- Marijuana Courier
- Marijuana Delivery Operator
- Marijuana Transporter
- Marijuana Research Facility
- Independent Testing Laboratory
- Standards Laboratory

3. **Location.**

- a) The Parties acknowledge that the Company shall identify to the Commission a proposed location where licensed operations of the ME/MTC will occur prior to being issued a license for such operations.
- b) The Municipality authorizes the Company to operate within the Municipality at [SPECIFIED LOCATION ONLY / LOCATION COMPLIANT WITH LOCAL ZONING, RULES, BYLAWS, OR ORDINANCES].
- c) If the Municipality authorizes the Company to operate at a specified location within the municipality as identified in Section 3.b., the specific location authorized to operate the license type in Section 2 is the following: [SPECIFIED LOCATION / NOT APPLICABLE].

4. **Compliance.**

The Parties shall comply with all laws governing the operation of the license type(s) selected in Section 2, as applicable, including, but not limited to:

- a) G.L. c. 94G, G.L. c. 94I, 935 CMR 500.000 *et seq.*, and 935 CMR 501.000 *et seq.*, as the same may be amended from time to time, or its successor statute(s) if any.
- b) The Municipality bylaws, local laws, ordinances, and zoning applicable to the operation of MEs/MTCs, as the same may be amended from time to time.
- c) The Company shall be responsible for obtaining from the Commission and the Municipality all licenses, permits, and approvals required for the operation of each license covered by the Agreement.
- d) The obligations of the Parties are contingent on the Company:

1. Obtaining a Final License from the Commission for operation of a license type(s) selected in Section 2 in the Municipality; and
 2. The Company's receipt of any and all necessary local permits and approvals to locate, occupy, and operate the license type(s) selected in Section 2 in the Municipality, inclusive of zoning compliance.
- e) If the Company is unable to obtain a Final License from the Commission, or if such local permits and approvals are not granted for any reason, then this Agreement shall be void.
- f) This Agreement does not affect the authority of the Municipality to issue or deny permits, licenses, or other approvals under the statutes and regulations of the Commonwealth, or the bylaws, local laws, zoning, and ordinances of the Municipality. Nor does this Agreement affect the Municipality's ability to enforce any applicable law.
- g) The Parties to this Agreement shall work in good faith to effectuate the purposes of this Agreement.

5. **Annual Payments Responsibilities.**

The Parties agree to the following provisions regarding annual payments responsibilities:

- a) CIF
1. There may be additional expenses and impacts including but not limited to impacts on the Municipality's infrastructure systems, law enforcement, fire protection services, inspectional services, as well as unforeseen expenses and impacts on the Municipality that are Reasonably Related to the operation of the ME(s)/MTC(s).
 2. To mitigate Reasonably Related expenses and impacts, the Company shall pay a CIF to the Municipality.
 3. The Municipality shall not explicitly or implicitly require the Company to make a promise of future monetary payments, in-kind contributions, or charitable contributions to the Municipality, notwithstanding the CIF payment provision allowed under G.L. c. 94G, § 3.
 4. A claimed impact fee shall not exceed three percent of the gross sales of the Company, nor be calculated on a certain percentage of the Company's sales.
 5. The Municipality shall not attempt to collect impact fees relating to any operations occurring prior to the date the Company is granted a Final License by the Commission for a particular MEs/MTCs.
 6. No impact fees shall be assessed after the eighth year of the Company's operations.

7. The Municipality shall not attempt to collect impact fees from the Company that has held a Final License for more than nine (9) years for a particular ME(s)/MTC(s).
8. The Municipality shall provide an annual itemized invoice of the impact fees claimed by the Municipality that are Reasonably Related to the operations of the Company (“claimed impact fees”) within one (1) month of the anniversary of the date the Company receives or received a Final License from the Commission for each license held by the Company located within the Municipality, if more than one. All subsequent, one-year invoice periods shall be consistent with the anniversary of the Company’s Final License date(s). Failure to provide said invoice within the prescribed time shall result in the Municipality forfeiting any CIF it may have been entitled to for the applicable year of the Company’s operation.
9. The Municipality’s itemized invoice shall specifically describe how the claimed impact fees were spent, including a line item for each good or service charged, and a statement of its cost, purpose, and relation to the Company’s particular operations.
10. The Company shall annually pay any undisputed CIF no later than the end of the current fiscal year or within 90 days of the date of the Commission’s CIF certification, whichever is later.
11. The Company shall not be required to pay the CIF if the CIF is the subject of a nonfrivolous legal dispute either through the Commission's administrative hearing process or before a court of competent jurisdiction.

b) Waiver of Community Impact Fee

A Municipality may not assess a impact fees or may choose to not collect impact fees in a particular year. Any such election shall not operate as a waiver of the Municipality's rights under this Agreement to collect a CIF in subsequent years.

c) Generally Occurring Fees

Generally occurring fees are those fees customarily imposed by the Municipality on non-cannabis businesses operating within its confines and shall not be considered a CIF. These fees include, but are not limited to, sewer and water connection, waste collection, and local taxes. The Municipality now affirms the following list of expected Generally Occurring Fees the Company will be required to pay: [LIST].

The Company concurs and consents to the stated list of Municipality’s expected Generally Occurring Fees provided herein.

d) Local Taxes

Property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable taxes for that property shall be paid either directly by the Company or by its landlord.

e) Other Taxes

Notwithstanding any previously identified provisions, the Company acknowledges and affirms its obligation to pay any and all fees associated with sales tax, excise tax on Marijuana and Marijuana Products, or other taxes or fees otherwise provided for in G.L. c. 94G, G.L. c. 64H, and G.L. c. 64N.

6. **Security.**

- a) The Company shall maintain security at its ME(s)/MTC(s) in accordance with the security plan presented to the Municipality and approved by the Municipality's Police Department and the Commission. In addition, the Company shall at all times comply with all applicable laws and regulations regarding the operations of MEs/MTCs, as applicable, and the security thereof.
- b) The Company shall comply with all Commission and the Municipality's security requirements as promulgated by state law, regulation, local law, ordinance, or bylaw.

7. **Energy Usage.**

The Company shall comply with the Commission's energy regulations provided in 935 CMR 500.105(1)(q), 935 CMR 500.105(15), 935 CMR 500.120(11), 935 CMR 500.130, *et seq.*, and, if applicable, comparative medical regulations.

8. **Equity and Local Opportunities.**

- a) The Company shall, consistent with applicable laws and regulations, make good faith efforts to hire municipal residents for employment, supplier services, and/or vendor services.
- b) The Company shall, consistent with applicable laws and regulations, have goals, programs, and metrics, and make progress towards those goals to hire individuals/businesses for employment, supplier services, and/or vendor services from areas defined as Areas of Disproportionate Impact by the Commission.
- c) The Company shall, consistent with applicable laws and regulations, have goals, programs, and metrics, and make progress towards those goals to hire individuals/businesses identifying as, as people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people.

9. **Effective Date, Term, and Termination.**

- a) This Agreement shall be in full force and effect beginning on [DATE].
- b) This Agreement shall terminate on [TERM / DATE / CONDITION PRECEDENT].
- c) At the conclusion of the term of this Agreement, the Parties may negotiate a new Agreement in accordance with the current prevailing regulations and laws as such regulations and laws may be amended or replaced. Alternatively, the Parties may negotiate and execute an HCA Waiver.

10. Notice of Discontinuance of Operations.

- a) The Municipality shall not discontinue relations with the Company in bad faith and shall provide the Company with written notice of the Municipality's intention to discontinue relations with reasonable advanced notice.
- b) This Agreement shall be void in the event that the Company ceases operations of its Marijuana Establishment in the Municipality for a period of greater than 60 days without substantial action to reopen or relocates such operations outside of the Municipality. The Company shall provide notice to the Municipality no less than 90 days prior to cessation or relocation of operations.

11. Governing Law and Severability.

This Agreement shall be governed in accordance with the laws of the Commonwealth of Massachusetts. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby, unless one or both Parties would be substantially or materially prejudiced.

12. Confidentiality.

The Parties agree that all records in the possession of the Municipality are governed by G.L. c. 66, § 10, the Public Records Law.

13. Amendments/Waiver.

The Parties may make amendments to this Agreement or waive its terms only by a mutually executed written agreement in accordance with the current prevailing regulations and laws as such regulations and laws may be amended or replaced.

14. Successors/Assigns.

This Agreement is binding upon the Parties hereto, their successors, assignees and legal representatives. The Company shall not assign, sublet, or otherwise transfer its rights nor

delegate its obligations under this Agreement, in whole or in part, without the prior written consent from the Municipality, and shall not assign any of the monies payable under this Agreement to the Municipality, except the written consent of the Municipality, but such consent by the Municipality shall not be unreasonably withheld or denied.

15. **Counterparts.**

This Agreement may be signed in any number of counterparts all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument, and any Party hereto may execute this Agreement by signing one or more counterparts.

16. **Signatures.**

Facsimile and electronic signatures affixed to this Agreement shall have the same weight and authority as an original signature. The individuals signing below have full authority to do so by the entity on whose behalf they have signed.

17. **Notices.**

Except as otherwise provided herein, any notices, consents, demands, requests, approvals, or other communications required or permitted under this Agreement shall be made electronically to the email(s) addresses identified below for the respective Parties:

Email Address(es) for the Municipality: [EMAIL ADDRESS(ES)]

Email Address(es) for the Company: [EMAIL ADDRESS(ES)]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

MUNICIPALITY OF [MUNICIPALITY]

Duly Authorized Representative Name: [NAME]

Duly Authorized Representative Title: [TITLE]

Duly Authorized Representative Signature: [SIGNATURE]

Date of Signature: [DATE]

COMPANY: [COMPANY NAME]

Duly Authorized Representative Name: [NAME]

Duly Authorized Representative Title: [TITLE]

Duly Authorized Representative Signature: [SIGNATURE]

Date of Signature: [DATE]