

Model Municipal Equity By-Law or Ordinance Template

PUBLIC COMMENT

Please note: the Cannabis Control Commission is accepting public comments in response to this template (Model Municipal Equity By-Law or Ordinance) from April 11, 2024 through April 25, 2024 at 5 p.m. All public comment submissions should be emailed to Commission@CCCMass.com with the subject line “Public Comment: Model Municipal Equity By-law or Ordinance”.



Introduction & Purpose

Pursuant to M.G.L. c. 94G § 3(d)(5), the Cannabis Control Commission (“Commission”) is required to establish minimum acceptable standards for Host Communities to promote and encourage full participation in the regulated marijuana industry by people from communities that were disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities. Furthermore, M.G.L. c. 94G, § 4(a)(xxxix)-(xxxvii) empowers the Commission to establish procedures for Host Communities to promote and encourage full participation in the regulated marijuana industry during Host Community Agreement negotiations with License Applicants that have been designated as Social Equity Businesses, Social Equity Program Participants, and Economic Empowerment Priority Applicants.

Under 935 CMR 500.181(3)(a) and 501.181(3)(a), Host Communities are presumed to have met the Commission's minimum acceptable equity standards for promoting and encouraging full participation in the regulated marijuana industry by taking one of the following actions:

1. Adopting an ordinance or bylaw to exclusively permit Social Equity Businesses for three years or until the goals of the exclusivity period have been met;
2. Adopting the Model By-Law or Ordinance created by the Commission to permit Social Equity Businesses; or
3. Creating a Local Approval Process for equity applicants that is administered on a 1:1 basis, where a General Applicant may be approved only after a Social Equity Business has commenced operations. Host Communities may choose to administer a 1:1 Local Approval Process until such time as 50% of the Licensees operating in the Host Community are Social Equity Businesses.

This Model Municipal Equity By-Law or Ordinance Template document (“Model”) was created by the Commission to help guide Host Communities with compliance of new regulatory requirements. The Commission advises Host Communities to consult with appropriate counsel and other relevant authorities and officials to ensure adoption of an appropriate by-law or ordinance that meets legal requirements.



MODEL MUNICIPAL EQUITY BY-LAW/ORDINANCE

Section 1: Legislative Authority

The [City/Town] is authorized pursuant to St. 2022, c. 180, An act relative to equity in the cannabis industry, M. G. L. c. 94G and M. G. L. c. 94I, 935 CMR §§ 500, and 501.

Section 2: Purpose

The intent of this [by-law/ordinance] is to develop clear policies and procedures to encourage full participation in the marijuana industry by people from communities that were disproportionately harmed by Marijuana prohibition and enforcement. These policies and procedures will assist the [City/Town] in negotiating host community agreements with applicants for marijuana establishments and medical marijuana treatment centers such as social equity businesses, social equity program participants, or economic empowerment priority applicants and other business owners.

Section 3: Applicability

This [by-law/ordinance] shall apply to all [City/Town] individuals and entities applying to be in the adult-use and medical-use cannabis industries located within the [City/Town]. No person shall operate a marijuana establishment or a medical marijuana treatment center unless duly licensed to do so by the Cannabis Control Commission. Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana.

Section 4: Definitions

The definitions set forth in M.G.L. c.94I § 1, M.G.L. c. 94G § 1, 935 CMR §§500.002, and §§501.002 are incorporated herein by reference. In the event of a conflict between the definitions in this [by-law/ordinance] and those contained in state laws and regulations, the definitions contained in state laws and regulations shall govern.

Section 5: Transparency of Applications and Applicants

The [City/Town] shall publish data regarding its total applicant pool, which shall identify each pre-verified or verified social equity business, social equity program participant or economic empowerment priority applicant.



The [City/Town] shall publicize certain information in a conspicuous location at its offices and on its website which shall, at minimum, include:

1. All required steps of the [City/Town]'s local approval process including, but not limited to, all associated fees, deadlines, and meeting schedules for local bodies involved in the Local Approval Process;
2. Identification of key individuals involved in the [City/Town]'s local approval process, including, but not limited to, their name, title, business address, and business contact information such as email address or phone number;
3. A list of all documentation required by the [City/Town]'s local approval process, in downloadable form and paper form;
4. Identification of application criteria for local approval to operate a marijuana establishment or medical marijuana treatment center, and scoring methodologies relied on by the [City/Town];
5. General and individual scoring information for all license applicants;
6. The [City/Town]'s explanation, in narrative form, of its reasoning for the approval or denial of an application; and
7. Any other information required by the Commission as outlined in 935 CMR §§ 500 and 501.

Section 6: Procedures and Policies for Host Community Agreement Negotiations

1. The [City/Town] shall adhere to best practices for host community agreement negotiations with individuals or entities pre-verified or verified as social equity businesses, and license applicants that have been designated as social equity program participants or economic empowerment priority applicants including, but not limited to, the following:
2. The [City/Town] shall develop a standard evaluation form, or use a form developed by the Commission, that scores components of an application. The evaluation form shall include consideration of equity in the overall evaluation score which must comprise not less than 25% of the total evaluation score.
3. This equity component shall include:
 - a. whether an individual, entity, or license applicant is pre-verified or verified by the Commission as a social equity business;
 - b. whether the license applicant is a social equity program participant;
 - c. whether the license applicant is an economic empowerment priority applicant;



- d. whether a license applicant or pre-verified individual or entity has a prior Marijuana-related criminal offense or conviction;
 - e. whether a license applicant or pre-verified individual or entity is part of an area of disproportionate Impact, as identified by the Commission; or
 - f. whether a pre-verified individual is of Black, African American, Hispanic, Latino, Native American or indigenous descent, or a majority of a pre-verified entity or license applicant entity is comprised of individuals that are of Black, African American, Hispanic, Latino, Native American or indigenous descent.
4. If the [City/Town] decides to allow additional marijuana establishments or medical marijuana treatment centers, at least 50% of those licenses, but no less than one license, above the previously-established cap shall be reserved for license applicants that are pre-verified or verified social equity businesses, social equity program participants, Economic Empowerment Priority Applicants, or all.

Section 7: Municipal Equity Plan

1. The [City/Town] shall develop an equity plan to promote and encourage full participation in the regulated cannabis industry by individuals from communities disproportionately harmed by cannabis prohibition and enforcement.
2. The [City/Town] shall publicize its equity plan in a conspicuous location at its offices and on its website.
3. The [City/Town]'s equity plan shall:
 - a. encourage applications from business and individuals that would meet the definition of Social Equity Businesses, Social Equity Program Participants, and Economic Empowerment Priority Applicants as determined by the Commission; and
 - b. include goals, programs, and measurements the Host Community will utilize to promote and encourage equity participation.

Section 8: Equity Standards for Host Community Agreements

1. The [City/Town] shall prioritize negotiations of host community agreements with equity parties. For the purposes of negotiations of a host community agreement for an application for licensure, equity parties are as follows:
 - a. a license applicant that is pre-verified or verified as a social equity business; or
 - b. a license applicant that has been designated as social equity program participants, economic empowerment priority applicants, or both.



2. The [City/Town] may waive or reduce fees for an equity party to a host community agreement negotiation, including, but not limited to community impact fees, zoning, and occupancy fees.
3. At minimum, the [City/Town] shall take the following actions during host community agreement negotiations with an equity party to promote and encourage their full participation:
 - a. engage in an ongoing dialogue by providing multiple opportunities for discussion and negotiation of host community agreement terms including, at minimum, two conferences with an equity party;
 - b. include any attorney, authorized representative, or other advocate, if elected by an equity party, in all negotiation discussions and conferences;
 - c. promote language access by providing a certified interpreter or translator to assist an equity party who is a non-english speaker during all negotiation discussions and conferences;
 - d. provide reasonable opportunities for an equity party to review a proposed host community agreement, term, or condition, outside of a negotiation conference, or to seek review or input by a third party of their choice;
 - e. negotiate the terms of a host community agreement in good faith, including consideration of flexible terms that may mitigate particular challenges affecting an equity party, such as access to capital, with all terms and clauses conspicuously identified and openly discussed; and
 - f. allow an equity party to propose an amendment to, or seek cancellation of, a host community agreement within thirty days from the date of execution of the host community agreement.
4. The [City/Town] may also:
 - a. expedite or prioritize the local approval process for social equity businesses, social equity program participants, and economic empowerment priority applicants;
 - b. provide technical assistance for social equity businesses, social equity program participants, and economic empowerment priority applicants navigating the local approval process;
 - c. designate counsel and/or a municipal planner, or other designees, as municipal contacts who shall work closely with social equity businesses, social equity program participants, and economic empowerment priority applicants in the local approval process from initial inquiry through the end of the permitting process; or
 - d. adopt an exclusivity period to permit social equity businesses for three years or until the goals of the exclusivity period have been met.
5. The [City/Town] shall not:
 - a. negotiate a host community agreement with an equity party through the use of undue influence, duress, coercion, intimidation, threats, or any strong-arm tactics;
 - b. threaten loss of an equity party's position in its local application queue or delay to



- the processing of an equity party's application;
- c. compel an equity party to sign a host community agreement in any manner that conflicts with the practices required through applicable state law and regulations and
 - d. Negotiate or discontinue negotiations with an equity party in bad faith.

Section 9: Implementation

This [by-law/ordinance] shall not be implemented in a manner that conflicts or interferes with the M.G.L. c. 94G or c. 94I, or with the regulations promulgated thereunder, including 935 CMR §§500 or 501.

Section 10: Severability

If any provisions of this [by-law/ordinance] shall be held to be invalid, those provisions shall be severable, and the remaining sections shall be valid with full force and effect.

