



Guidance on Community Impact Fees

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I. Purpose

The Cannabis Control Commission (“Commission”) is issuing this guidance document to provide insight into regulations promulgated related to Chapter 180 of the Acts of 2022 (“Chapter 180”) and applicable law. This guidance focuses on the general parameters of Community Impact Fees. The Commission seeks to support applicants, licensees, and municipalities in complying with its new regulations promulgated on October 27, 2023.

Please note that this guidance is not legal advice. If applicants, licensees, and municipalities have legal questions regarding marijuana laws in the Commonwealth, they are encouraged to consult their counsel and other applicable resources. Municipalities should also note that this guidance is subject to change if the Legislature further amends the adult-use cannabis statute, G. L. c. 94G, or the medical-use statute, G. L. c. 94I.

II. Introduction

Under G. L. c. 94G, § 4, and G. L. c. 94I, the Commission has the authority to promulgate regulations governing the state licensure processes for the adult- and medical-use marijuana programs. In general, the Commission will not issue a license to an applicant unless (1) the applicant has submitted an application in compliance with Commission regulations¹ and (2) the Commission is not notified by the municipality that the proposed applicant is not in compliance with local ordinances or by-laws.²

Generally, a municipality can adopt a by-law or ordinance imposing “reasonable safeguards,” on licensing activities which can include restrictions on the time, place, and manner of operations within its borders.³ Under the “Local Control” provisions of G. L. c. 94G, § 3, and subject to statutory and regulatory requirements, municipalities have the authority to negotiate and enter into Host Community Agreements (“HCAs”) or HCA Waivers with license applicants, Marijuana Establishment (“ME”) licensees and Medical Marijuana Treatment Centers (“MTCs”) (collectively, the “licensees”). For more information on Host Community Agreements and responsibilities of municipalities, please see VIII Seeking Counsel, Support and Questions.

A Host Community is allowed to submit a claim for a Community Impact Fee (“CIF”) for costs

¹ G. L. c. 94G, § 5 (b) (1).

² G.L. c. 94G, § 5 (b) (2).

³ G. L. c. 94G, § 3 (a) (“A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter”).



reasonably related to the impact of a Marijuana Establishment’s operations.⁴ CIFs are not mandatory and may be waived by the municipality on a case-by-case basis or for all MEs and MTCs operating within a municipality. Otherwise, the CIF provisions and terms must be structured appropriately and consistently with G. L. c. 94G, § 3 (d), 935 Code Mass. Regs. §§ (“CMR”) 500 and 501, and applicable case law.

III. What is a Community Impact Fee (CIF)?

A Community Impact Fee is an “impact fee(s) claimed by a Host Community in relation to the operations of a particular Marijuana Establishment or MTC 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 on a Host Community by a Marijuana Establishment or MTC's operations.”⁵

Statutes and regulations require CIFs to comply with the following:

- Be Reasonably Related to the costs imposed upon the municipality by the operation of the licensee;
- Not amount to more than three (3) percent of the gross annual sales of the license;
- Not be effective after the license’s eighth year of operation;
- Commence no sooner than the date the license is granted a final license by the Commission; and
- Not be mandated as a certain percentage of total or gross sales as the community impact fee.

The term “Reasonably Related” means a demonstrable nexus between the actual operations of an ME or MTC and an enhanced need for a municipality’s goods or services in order to offset the impact of operations.⁶ Fees customarily imposed on other non-marijuana businesses operating in a municipality shall not be considered Reasonably Related.⁷

Possible costs included in an invoice for CIFs may include, but are not limited to, the following if the costs imposed are beyond those required for non-marijuana businesses in the municipality:

- Consultation costs;

⁴ 935 Code Mass. Regs. § (“CMR”) 500.002 Community Impact Fee (CIF) (“means impact fee(s) claimed by a Host Community in relation to the operations of a particular Marijuana Establishment or MTC 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 on a Host Community by a Marijuana Establishment or MTC's operations.”)

⁵ 935 CMR 500.002

⁶ 935 CMR 500.002 and 501.002.

⁷ *Id.*



- Traffic intersection design studies;
- Public safety personnel overtime costs; and
- Environmental impact studies.

Prohibited CIF practices may include but are not limited to the following:

- A Host Community may not mandate or require the CIF be a certain percentage of an ME or MTC's total or gross sales.
- A CIF invoice exceeding 3% of the gross sales of an ME or MTC.
- In circumstances where the licensed Premises is the site of multiple final licenses, claimed impact fees must be specifically related to the distinct operations of each licensed entity.
- A Host Community may not include additional payments or obligations in its invoice of claimed impact fees, including but not limited to monetary payments, in-kind contributions and charitable contributions by an ME or MTC to a Host Community or any other organization.

Prohibited Provisions of an HCA Related to CIFs

To ensure compliance with the wording and intent of Chapter 180, the Commission has adopted policies through regulations that govern prohibitive provisions and terms of HCAs related to CIFs. No HCA will be certified by the Commission that contains the following provisions or terms relating to CIFs:

- A promise to make a future monetary payment, in-kind contribution, or charitable contribution;⁸
- A requirement that the CIF be a certain percentage of a licensee's total or gross sales as a term or condition;⁹
- A demand of a CIF exceeding 3% of the gross sales of a licensee as a term or condition;¹⁰
- A provision that requires an applicant or licensee to make upfront payments as a condition for operating in the municipality;
- A provision waiving a licensee's ability to dispute whether impact fees claimed by a municipality are reasonably related and properly due and payable as a CIF;
- A provision that categorically deems a municipality's claimed impact fees to be reasonably related or that otherwise excuses a municipality from calculating impact fees based on the licensee's actual operations;

⁸ 935 CMR 500.180(2)(k)1.; 935 CMR 501.180(2)(k)1.

⁹ 935 CMR 500.180(2)(k)3.; 935 CMR 501.180(2)(k)3.

¹⁰ 935 CMR 500.180(2)(k)4.; 935 CMR501.180(2)(k)4.



- A provision that imposes legal, overtime, or administrative costs or any costs other than a CIF on a licensee with the exception of a licensee’s tax obligations or its responsibility for paying routine, generally occurring municipal fees;
- A provision that obligates a licensee to set aside money in an escrow, bond, or other similar account for a municipality’s use or purposes; and
- A provision including or otherwise deeming good faith estimates, unquantifiable costs, generalized expenses, or pro-rated expenses as a CIF.

The preceding items are not an exhaustive list of prohibitive provisions or terms. For more information on Host Community Agreements, please see the section “VIII Seeking Counsel, Support and Questions.”

IV. Submission and Certification Procedure

The submission and certification procedure of CIFs involves Host Communities, MEs and MTCs and the Commission. First, Host Communities must promptly invoice all claimed CIFs. Then MEs and MTCs must verify gross annual sales and submit supporting documentation with the Commission. Finally, the Commission will review and certify claimed impact fees.

Host Community Claimed Community Impact Fee Invoicing

A Host Community is responsible for submitting an invoice to the ME or MTC within one month of the anniversary of the licensee’s final license date. The invoice should include a specific description of how the claimed impact fees were spent, including each line item for each good or service charged stating its cost, purpose and relation to the ME or MTC’s operation.¹¹

The invoice period must cover only a one-year period that starts from the date the Commission grants an ME a final license. A Host Community shall further ensure that all subsequent, one-year invoice periods are consistent with the anniversary of an ME or MTC's final license date. The Commission will not certify any impact fees attributable to dates outside of the applicable invoice period. Host Communities are encouraged to develop a process for monitoring claimed impact fees.¹² Host Communities can use the Commission provided [Community Impact Fee Invoice Form for Municipalities](#) or use their own provided all the information is included in the invoice. Host Municipalities should also notify the Commission when submitting the invoice to the ME or MTC.

When writing invoices of claimed community impact fees, Host Communities may not:

¹¹ 935 CMR 500.180(4)(a) and 501.180(4)(a).

¹² Id.



- Use good faith estimates, unquantifiable costs, generalized expenses, or pro-rated expenses in its CIF invoice.
- Attempt to collect impact fees relating to any operations occurring prior to the date an ME or MTC is granted a final license by the Commission.
- Attempt to collect impact fees from any ME or MTC that has held a final license for more than nine years.
- Include any legal costs incurred by a Host Community to defend against a lawsuit brought by an ME or MTC in its invoice of claimed impact fees.
- Modify the effective date of a preexisting CIF for any final license that becomes subject to an ownership or control change.

ME and MTCs Responsibilities

Within 30 calendar days of receiving a Host Community’s invoice of claimed impact fees, the ME or MTC must submit the following to the Commission via the CIF MassCIP application:

1. The Claimed Impact Fee invoice,
2. Verification of its Gross Annual Sales including wholesale revenue, and
3. Any supporting documentation.

The ME or MTC shall provide verification of its Gross Annual Sales including wholesale revenue by submitting a summary of all sales of Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods for that license to consumers and other Licensees.¹³

If product was wholesaled or otherwise sold or transferred to other Licensees at no cost or reduced cost, a Marijuana Establishment shall apply the average cost per gram or milligram to the amount sold or transferred to establish and report the fair market value of the product and include that amount in its summary submission.¹⁴

Gross Annual Sales data and supporting documentation submitted with Claimed Impact Fees shall not be used by the Commission for any other purposes related to other obligations, including tax filings, for a Marijuana Establishment.¹⁵

Commission Review and Certification

The Commission shall review a Host Community’s invoice of claimed impact fees and make a determination certifying, in whole or in part, the CIF that may be assessed for the preceding year of an

¹³ 935 CMR 500.180 (4)(c)(1)(a) and 501.180(4)(c)(1)(a).

¹⁴ 935 CMR 500.180 (4)(c)(1)(b) and 501.180(4)(c)(1)(b).

¹⁵ 935 CMR 500.180(4)(c)(2) and 501.180(4)(c)(2).



ME or MTC's operations.

The Commission will review the claimed impacts from the Host Community as listed on the invoice and certify each line item based on a finding that the fee is reasonably related to the ME or MTC's operations.

After totaling the sum of the certified line items, the Commission will review the ME or MTC's Gross Annual Sales using the following factors:

- Consumer Sales as represented by a Marijuana Establishment;
- Consumer Sales as represented by the Commission Seed-to-sale System of Record;
- Fair Market Value of wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods;
- Any wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods that has been refunded or is otherwise the subject of a voided sale;
- Value of services rendered, wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods as represented by the Commission Seed-to-sale System of Record; and
- Other factors as determined necessary by the Commission to calculate the Gross Annual Sales by the licensee in the absence of available information as listed in 935 CMR 500.180(4)(c) and 501.180(4)(c).

The Commission will provide notice of its CIF determination to the ME/MTC and the Host Community. The notice will outline the invoiced items that were certified and the amount the ME or MTC owes the Host Community. The notice will also remind an ME or MTC of their options to dispute the findings of the Commission.¹⁶

V. Dispute Resolution

If an ME, MTC or Host Community wishes to challenge the findings of the Commission's CIF determination, there are three remedies available to them to settle the dispute: 1) Private Mediation, 2) Court Review; or, 3) Administrative Hearing.¹⁷

Private Mediation

The parties may also elect to retain a private mediator to resolve a dispute if mediation is included as a term of the HCA or is voluntarily elected by the parties. Neither party may unilaterally compel private mediation.

¹⁶ 935 CMR 500.180(4)(c), and 501.180(4)(c).

¹⁷ Id.



Administrative Hearing

An ME or MTC may request an administrative hearing before an independent Hearing Officer of the Commission to challenge the findings of fact and conclusions of law included in the Commission's CIF determination. The Host Community may also seek intervention as a party to the hearing. Any administrative proceeding elected by a Marijuana Establishment must be conducted pursuant to 801 CMR 1.01: *Formal Rules* and according to the Commission's hearing process for licensees as outlined in 935 CMR 500.500 and 501.500: *Hearings and Appeals of Commission Actions on Licensees*.

Court Review

A Licensee may seek court intervention to independently review a Host Community's claimed impact fees by bringing a breach of contract action against a Host Community in a court of competent jurisdiction.

VI. Payments

An ME or MTC 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 directly to the Host Community.¹⁸

After a CIF dispute has resolved, an ME or MTC must provide proof of payment of the certified CIF with its renewal application to the Commission.¹⁹

If an ME or MTC prevails in a CIF dispute, the ME or MTC must also provide proof to the Commission that its CIF payment obligation has been eliminated.²⁰

VII. Complaints of Non-Compliance with Host Community Agreements and Municipal Equity Regulations

The Commission may investigate any complaint alleging non-compliance with the HCA and municipal equity regulations and will take enforcement action if necessary. Failure by a municipality to correct the noncompliant conduct may result in one or more of the following:²¹

- Issuance of sanctions pursuant to 935 CMR 500.360 and 501.360;

¹⁸ 935 CMR 500.180(4)(a)(8) and 501.180(4)(a)(8).

¹⁹ 935 CMR 500.180(4)(c)(6) and 501.180(4)(c)(6).

²⁰ Id.

²¹ 935 CMR 500.180(3)(d)4 and 501.180(3)(d)4.



- Loss of a municipality’s good compliance standing for purposes of 935 CMR 500.180(2)(g) and 501.180(2)(g);
- Identification of a municipality’s lack of good compliance standing in a form and manner determined by the Commission;
- A fine totaling the sum of all Community impact fees received by the municipality for the preceding year; or
- Abstaining from consideration of any new license applications affiliated with a municipality until a municipality’s good compliance standing is restored.

VIII. Seeking Counsel, Support, and Questions

Municipalities, license applicants, and licensees are encouraged to seek legal advice from a licensed attorney with respect to municipal by-laws, requirements, processes, negotiations regarding HCAs, and community impact fees.

Other available resources include:

- The Cannabis Control Commission’s [Adult Use Regulations 935 CMR 500](#)
- The Cannabis Control Commission’s [Guidance on Host Community Agreements](#)
- The Cannabis Control Commission’s [Guidance on Municipal Equity and Industry Participation](#)
- Office of the Attorney General [Municipal Law Unit’s website at Municipal Law Review | Mass.gov](#).
- Individuals concerned about fraud, waste, and abuse can contact the Office of the Inspector General’s hotline at (800) 322-1323 or use the [online form](#).

For more information and resources regarding CIFs, please [visit our page](#). If you have additional questions on these CIF policies, please contact the Commission at Licensing@CCCMass.com or (774) 415-0200.

