

RE: Public Comment: Model Municipal Equity By-law or Ordinance

Dear Acting Chair Concepcion; Commissioners Camargo, Roy, & Stebbins; and Staff,

Thank you for your work to develop regulations implementing Ch. 180 of the Acts of 2022, and for the work that you and the dedicated Cannabis Control Commission (CCC) staff have undertaken to effectuate those regulations, including the creation of the draft Model Municipal Equity By-Law or Ordinance Template document.

We appreciate the thoroughness with which this document addresses the numerous aspects of municipal equity outlined in 935 CMR 500/501.181.

To help you advance your goals of advancing equitable participation in Massachusetts' cannabis industry, we write on behalf of Equitable Opportunities Now and our supporters around the Commonwealth to provide the suggested revisions redlined in the document below.

While many of the suggestions enclosed are cosmetic (e.g. capitalization, numbering, formatting, etc.) there are several key issues we urge you to address. First and foremost, the Introduction & Purpose is a critical narrative that outlines host community obligations pursuant to your regulations. There are several pieces of additional information to include that are important for applicants and municipalities to have access to in this document, which are detailed below.

Additionally, the issue of conflicting statutory and regulatory definitions first emerges in Section 4 but arises repeatedly throughout the document in relation to "social equity businesses." As you are likely aware, state law includes "individuals who are eligible for the social equity program," while CCC regulations are more restrictive. Host communities, the Executive Office of Economic Development, and other government entities should be empowered to grant applicants who meet the definition of a social equity business under [M.G.L. c. 94G § 1](#) but choose not to enroll in the Social Equity Program with the full rights and benefits afforded other social equity businesses, and should be empowered to count them among social equity businesses for data collection purposes.

We hope that you will find the following suggestions help to strengthen the document and enable the CCC and host communities to further advance equitable participation in the cannabis industry:

- 1) Introduction & Purposes: Add additional important information related to compliance with 935 CMR 500.181(3) and 501.181(3), including:
 - a. A brief summary of Host Community obligations under 935 CMR 500.181(3)(b) and 501.181(3)(b) and 935 CMR 500.181(5) and 501.181(5),
 - b. The May 1, 2024, deadline to comply with 935 CMR 500.181(3) and 501.181(3),
 - c. Instructions for how to report allegations of non-compliance and/or URL for a complaint submittal form,
 - d. Contact information or URL for submitting related questions to the CCC, and
 - e. URL for accessing related information relevant to Host Communities
- 2) Section 1, Legislative Authority: Specify what the Host Community is authorized to do by the listed legislation.
- 3) Section 2, Purpose: Reiterate that the by-law or ordinance intends to comply with relevant regulations in 935 CMR 500.181(3) and 501.181(3).
- 4) Section 3, Applicability
 - a. Clarify that Marijuana Establishments and Marijuana Treatment Centers must receive local approval in addition to being duly licensed by the CCC.
 - b. Clarify that nothing in the by-law or ordinance or related plans, policies, and procedures shall be construed as superseding federal or state regulations in addition to laws.
- 5) Section 4, Definitions
 - a. If definitions are incorporated into the by-law or ordinance by reference, how could they conflict with the reference sources as contemplated in sentence two?
 - b. Clarify that definitions included in statute shall govern in the event of a conflict between laws and regulations.

For example, the statutory definition of a Social Equity Business includes those who are eligible for the Social Equity Program and Economic Empowerment priority status, while CCC regulations limit Social Equity Businesses to those who are Social Equity Program participants or who meet Economic Empowerment priority criteria:

- i. M.G.L. c. 94G § 1: “Social equity business”, a marijuana establishment with not less than 51 per cent majority ownership of individuals who are eligible for the social equity program under section 22 or whose ownership qualifies it as an economic empowerment priority applicant as defined by the commission’s regulations promulgated pursuant to section 4.”
 - ii. 935 CMR 500.002: “Social Equity Business (SEB) means a Marijuana Establishment comprised of at least 51% (majority) ownership of individuals who are Social Equity Program Participants, or who have been certified as meeting the Commission’s criteria for designation as an Economic Empowerment Priority Applicant, or both.”
 - c. The CCC should undertake a comprehensive review of definitions in state laws and regulations to identify and address any other conflicting definitions.
- 6) Section 5, Transparency of Applications and Applicants
- a. Clarify that Host Communities may certify Social Equity Businesses pursuant to the definition provided in M.G.L. c. 94G § 1 and ensure that it is included in published applicant data.
 - b. Add section numbers to the first two paragraphs and update numbering format of the points included within the new Section 5, Subsection 2 regarding the conspicuous publication of certain information.
- 7) Section 6, Procedures and Policies for Host Community Agreement Negotiations
- a. Review the numbering and formatting of the subsections of subsections, including the language in Section 6, Subsection 1 that concludes “including, but not limited to, the following:”
 - b. Clarify current Section 6, Subsection 3(a) to make clear that a Host Community may designate an eligible Social Equity Business pursuant to M.G.L. c. 94G § 1.
- 8) Section 7, Municipal Equity Plan
- a. Add a third item between the current subsections 2 and 3 affirming that the Host Community shall submit its equity plan in the form and manner specified by the CCC.
 - b. NOTE: “Social Equity Program” and “Economic Empowerment” appear title cased in current subsection 3 / new subsection 4 and in the narrative introduction, but lowercase throughout model ordinance/by-law. The CCC may wish to review the full document for consistency in capitalization of equity business designations, licenses, and document names.
- 9) Section 8, Equity Standards for Host Community Agreements
- a. Add a third subsection between items (a) and (b) to clarify that a license applicant may be designated as a social equity business by the Host Community in accordance with the definition provided by M.G.L. c. 94G § 1.
 - b. Update Section 8, Subsection 3(c) to capitalize “English.”
 - c. Strengthen Section 8, Subsection 4 by
 - i. Requiring the Host Community to specify which items in this subsection it will implement,
 - ii. Reordering items to move most impactful to the top, and
 - iii. Adding additional common steps that a Host Community may take to encourage equitable participation.
 - d. Update Section 8, Subsection 5(d) to make the casing consistent with other items.
- 10) Section 9, Implementation: Add language explicitly authorizing designated city/town staff to promulgate regulations and generate documents necessary to implement the by-law/ordinance.



- 11) New Section 11, Positive Impact Plan: Add language codifying the Host Community's obligations under 935 CMR 500.181(5) and 935 CMR 501.181(5) to create a plan to positive impact one or more community harmed by the war on drugs.
 - a. Require host communities to indicate which of the eligible communities its plan intends to positive impact.
 - b. Include language ensuring the plan is conspicuously posted in offices and online.
 - c. Include language requiring the plan to include goals, programs, and measurements.
 - d. NOTE: This was added as Section 11 for simplicity; please consider making this section the new Section 9 and renumbering accordingly.
- 12) New Section 12, Effective Date: Add a section with language to specify the effective date of the by-law/ordinance.

Thank you again for all the work that Commissioners and staff have undertaken to promulgate and implement these regulations and develop these documents. We are especially grateful for your commitment to stakeholder engagement and feedback, and your consideration of these comments.

Please do not hesitate to contact us with any questions or if we can ever be a resource; please direct questions to EON Policy Co-Chair Kevin Gilnack at kevin@masseon.com or 860.918.6197.

Thank you,
Shanel Lindsay, Founder
Armani White, Policy Co-Chair
Kevin Gilnack, Policy Co-Chair





Model Municipal Equity By-Law or Ordinance Template

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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”.

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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)(xxxi)-(xxxii) 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.

Host Communities must also implement:

- transparent practices to promote and encourage full equity participation [935 CMR 500.181(3)(b)(1) and 501.181(3)(b)(1)]
- an equity plan to promote and encourage full participation in the industry by people from communities harmed by cannabis prohibition and enforcement [935 CMR 500.181(3)(b)(2) and 501.181(3)(b)(2)]
- a plan to positive impact communities disproportionately harmed by the war on drugs [935 CMR 500.181(5) and 501.181(5)]
- a standard evaluation form for scoring applicants (unless using a standard form provided by the Commission) [935 CMR 500.181(3)(c)(1) and 501.181(3)(c)(1)]

Transparent practices to promote and encourage equitable participation include conspicuous posting of information about local approval, developing and publicizing an equity plan, and publication of applicant data. A Host Community’s plan to positively impact disparately harmed communities must also be conspicuously posted in its offices and on its website.

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Host Communities must adopt local rules or bylaws to comply with 935 CMR 500.181(3) and 501.181(3) on or before May 1, 2024 and will be asked to submit an attestation affirming that it has adopted compliant local laws and copies of its equity plan and any other documentation of compliance, per 935 CMR 500.181(3)(d) and 501.181(3)(d).

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If you believe that a Host Community is not compliant with 935 CMR 500.181(3) and 501.181(3), [information for reporting allegations of non-compliance].

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 an appropriate by-law or ordinance that meets legal requirements.

Questions regarding the Model or related regulations may be directed to the Commission at [CCC contact info].

Applicants, licensees, and municipal officials can find additional information about equity in municipal cannabis licensing at [CCC URL].

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MODEL MUNICIPAL EQUITY BY-LAW/ORDINANCE

Section 1: Legislative Authority

The [City/Town] is authorized to enact this [by-law/ordinance] to encourage full participation in the marijuana industry by people from communities that were disproportionately harmed by the war on drugs 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~~ establish 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 in compliance with 935 CMR §§ 500.181, and 501.181. 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 approved to do so pursuant to this [by-law/ordinance] and duly licensed to do so by the Cannabis Control Commission. Nothing in this ~~section [by-law/ordinance] or resulting plans, policies, procedures, or other aspects of implementation~~ shall be construed to supersede federal and state laws or regulations 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. In the event of a conflict between the definitions in state laws and regulations, the definitions contained in state laws shall govern.

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Section 5: Transparency of Applications and Applicants

1. 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 and any social equity businesses certified by the Host Community in accordance with M.G.L. c. 94G § 1.
2. The [City/Town] shall publicize certain information in a conspicuous location at its offices and on its website which shall, at minimum, include:
 - ~~1.~~ a. 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.~~ b. 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.~~ c. A list of all documentation required by the [City/Town]'s local approval process, in downloadable form and paper form;
 - ~~4.~~ d. 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.~~ e. General and individual scoring information for all license applicants;
 - ~~6.~~ f. The [City/Town]'s explanation, in narrative form, of its reasoning for the approval or denial of an application; and
 - ~~7.~~ g. Any other information required by the Commission as outlined in 935 CMR §§ 500 and 501.

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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:

Commented [KG2]: Should the points that follow be incorporated as sub-points to Section 6, Subsection 1?



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.

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3. This equity component shall include:

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- a. whether an individual, entity, or license applicant is pre-verified or verified by the Commission **or Host Community** 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.

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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 preverified 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.

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2.3. The [City/Town] shall submit its equity plan and any other documentation of compliance with 935 CMR 500.181(3) and 501.181(3) in the form and manner specified by the Cannabis Control Commission.

3.4. 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.

Commented [KG4]: "Social Equity Program" and "Economic Empowerment" are generally title cased in the Introduction and lower cased in the model by-law. The CCC may want to review the document for consistency in capitalization.

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;
 - ~~a.~~ b. a license applicant designated as a social equity business by [City/Town] as defined in M.G.L. c. 94G § 1; or
 - ~~b.~~ c. 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~~-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 shall~~ also [select at least one of the first three items, or at least four of the subsequent bullets, specifying any additional policies in the final bullet]:
- adopt an exclusivity period to permit social equity businesses for three years or until the goals of the exclusivity period have been met;
 - create 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 until such time as 50% of the Licensees operating in the Host Community are Social Equity Businesses;
 - provide a grant and loan program to capitalize equity parties
 - expedite or prioritize the local approval process for social equity businesses, social equity program participants, and economic empowerment priority applicants;
 - provide technical assistance for social equity businesses, social equity program participants, and economic empowerment priority applicants navigating the local approval process;
 - waive fees including: [specify: community impact fees and licensing, inspection, and/or other municipal fees]
 - provide tax exemptions and credits for equity businesses and landlords that site them including: [specify]
 - conduct additional data gathering, research, and evaluation to encourage equitable participation
 - conduct additional public education and outreach to encourage the siting of equity businesses and connect equity businesses with resources
 - 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
 - provide the following additional programs, policies, and procedures to encourage equitable participation: [specify]
 - adopt an exclusivity period to permit social equity businesses for three years or until the goals of the exclusivity period have been met.

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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~~ negotiate or discontinue negotiations with an equity party in bad faith.

Section 9: Implementation

The [title] of [department], [title] of [department], [title] of [department] and their designees are authorized to promulgate regulations and create all necessary policies, forms, plans, documents, websites, and other materials necessary to implement this [by-law/ordinance], provided that This 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.

Section 11: Positive Impact Plan

1. The [city/town] shall develop a plan to positive impact one or more of the following communities (check all that apply):
 - Past or present residents of the geographic "areas of disproportionate impact," which have been defined by the Commission and identified in its Guidance for Identifying Areas of Disproportionate Impact.
 - State-designated Economic Empowerment Priority Applicants.
 - State-designated Social Equity Program participants.
 - Massachusetts residents who have past drug convictions.
 - Massachusetts residents with parents or spouses who have drug convictions.
2. The [city/town] shall publicize its Positive Impact Plan in a conspicuous location at its offices and on its website.



3. The plan shall include, but not be limited to, goals, programs, and measurements.

Section 12: Effective Date

This [by-law/ordinance] shall take effect on [date].

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