

SUGGESTED NEW LANGUAGE for CHARTER RIGHT # 16 Re Eliminating Impact Fees on HCAs

March 16, 2022

Sponsors of Original Order: Simmons, McGovern, Toner, and Azeem. Original Order at

http://cambridgema.igam2.com/Citizens/Detail_LegiFile.aspx?Frame=None&MeetingID=4020&MediaPosition=&ID=15627&CssClass=

Councilor Zondervan’s Suggested Changes in **Blue, Bolded font**, Councilor Simmons’s suggested changes in **Red Font**.

WHEREAS:	At least seven Economic Empowerment (EE) and Social Equity (SE) applicants in Cambridge have so far received their business permits, and Cambridge is poised to soon have one of the highest concentrations of equity adult use cannabis retail establishments in the state, yet to date, only one business has been able to open their doors; and
WHEREAS:	A variety of factors have contributed to the slow start of establishing local recreational dispensaries, including but not limited to procedural delays caused by the pandemic, litigation, and the significant costs associated with obtaining licenses, securing product, securing and holding retail space during an international pandemic, and the hiring and training of staff; and
WHEREAS:	The two-year delay caused by the Covid-19 pandemic has presented a particularly difficult challenge for local Equity Empowerment (the “EE”) and Social Equity (the “SE”) applicants to navigate, as those who secured retail space two or more years ago in anticipation of offsetting their monthly rent with their monthly profits have instead had to absorb two years’ worth of rent without any sales to offset these costs, threatening the fiscal viability of some these fledgling enterprises; and
WHEREAS:	Cambridge’s pioneering exclusivity period has built a strong foundation for equitable development of the emerging adult-use cannabis industry, but it is imperative to consider additional ways to assist EE and SE applicants through the immense challenges they face; and
WHEREAS:	Another significant cost will be the local “Impact Fees,” which the City defines in all its HCAs as “...the amount of three percent (3%) of the Applicant’s gross revenues derived from the Cannabis Business’ sales...[because]...[t]he Parties anticipate that, as a result of the Applicant’s

	operation of the Cannabis Business, the City will incur additional expenses and impacts upon its road system, law enforcement, inspectional services, permitting services, administrative services, educational services and public health services, in addition to potential unforeseen impacts upon the City,” and these fees must be paid to the City on an annual basis; and
WHEREAS:	Massachusetts has collected \$74.2 million from cannabis sales as of December 2021, the excise tax of 10.75% on recreational cannabis comprising less than half of the total tax revenue being collected for cannabis, as there is also a 6.25% state sales tax, plus the local tax of 3% and the Impact Fees of up to 3% of gross revenue, which all added up to \$208 million in total tax revenue last fiscal year; and
WHEREAS:	Due to substantial and negative impact of the 3% (Impact Fees) on the viability of these EE and SE Cannabis Dispensaries, and in light of the supporting evidence from other Massachusetts municipalities that the removal of these Impact Fees would not have any appreciable impacts upon the community or add significant additional costs to the City , it would be a small but significant action if the City were to remove or reduce this additional financial hurdle for local EE and SE applicants, in an effort to support the viability of these businesses during such uncertain times for brick and mortar businesses; and
WHEREAS:	The City Council has repeatedly declared its strong support for creating favorable conditions that would provide EE and SE applicants with the greatest chances for success, and to that end it would be just and equitable for the City to conditionally waive impact fees for all Cannabis Businesses until and unless the city is required to expend funds to mitigate specific impacts from Cannabis Businesses, and to exempt EE and SE applicants from any such charges to the maximum extent permissible ; now therefore be it
ORDERED:	That the City Manager be and hereby is requested to adopt a policy of conditionally waiving all impact fees until and unless the city is required to expend funds to mitigate specific impacts from Cannabis Businesses, providing at least six months advance notice to all businesses before any such fee must be paid, to amend all existing HCAs to reflect this policy, and this should become applicable upon adoption of this policy order ; and be it further
ORDERED:	That the City Manager be and hereby is requested to work with relevant staff to provide a comprehensive, data-driven update on Cambridge’s emerging cannabis industry at a future hearing of the Finance Committee, including (but not limited to): <ul style="list-style-type: none"> • Information on the number of EE and SE applicants seeking to open in Cambridge and where they stand in the process

	<ul style="list-style-type: none">• Information on the ways in which city staff have worked with EE and SE applicants to help them get through the process as swiftly as possible• Information on revenue generated by adult-use cannabis businesses in Cambridge to date• An itemization of expenditures that the city has so far been required to make or anticipates having to make in order to mitigate specific impacts of Cannabis Businesses• A legal opinion on the possibility of completely exempting EE and SE applicants from impact fees that may be assessed, or to charge them proportionally less than other applicants, as a matter of equity• An itemization from the City Manager listing all the fees imposed upon EE and SE applicants from the issuing of the special permit to the issuing of the Certificate of Occupancy• An accounting of the approximate amount of time, on average, it takes an applicant to progress from expressing an interest in opening their business in the City to being issued the Certificate of Occupancy; and be it further
ORDERED:	That the City Manager be and hereby is requested to provide this update to the Finance Committee shortly after the FY23 budget is adopted by the City Council.