

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 124.00: HOST COMMUNITY ELECTION PROCESS

Section

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124.01: Scope and Purpose

205 CMR 124.00 establishes parameters for elections as provided in M.G.L. c. 23K, § 15(13). In accordance with M.G.L. c.23K, §15(13) an applicant for a gaming license must have received a certified and binding vote on a ballot question at an election in the host community in favor of such license as a prerequisite to filing an RFA-2 application in accordance with 205 CMR 119.00: *Phase 2 Application*.

124.02: Request for an Election

(1) After a host community and an applicant for a gaming establishment license execute a host community agreement, the applicant shall file with the governing body of the host community a written request for an election on the question whether the host community shall permit the operation of a gaming establishment licensed by the Massachusetts Gaming Commission located at a specified site within the community. The applicant shall send a copy of the request to the commission along with a copy of the executed host community agreement.

(2) Upon receipt of the request, the governing body shall acknowledge receipt of the request by letter. The letter shall state the date that the applicant's request was received by the community. The governing body shall send a copy of the letter to the commission.

(3) In the event that a proposed gaming establishment is to be situated in more than one community, the applicant shall not request an election in either community until it has executed a host community agreement with all of the affected prospective host communities or a joint agreement with each prospective host community.

124.03: Call for and Scheduling of the Election

Upon receipt of a request for an election by an applicant in accordance with 205 CMR 124.02(1), the governing body of the municipality shall call for the election to be held not less than 60 days but not more than 90 days from the date that the request was received. The city or town clerk shall then set a date certain for an election. Provided, however, in the event that a municipality has executed a host community agreement with more than one applicant the election on each shall be set for the same date.

124.04: Information to be Provided to Voters

(1) The host community agreement signed by the community and the applicant shall be made public by publishing a fair, concise summary of the agreement in a periodical of general circulation at the applicant's expense and on the official website of the municipality not later than seven days after the agreement is signed by the parties. Provided, the publication of the summary in the periodical shall also either be accompanied by a copy of the agreement or shall include the official website addresses of the municipality and the Commission (at which locations a copy of the host community agreement shall be posted for viewing), and shall contain an advisory that a hard copy of the agreement can be obtained at the municipality's clerk's office. The fair, concise summary of the agreement shall be approved by the city solicitor or town counsel prior to publication, and shall outline the contents of the host community agreement.

The agreement and summary shall remain on the municipal website until the election has been certified.

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(2) Host communities shall make voting information available to its citizens including deadlines for registering to vote in the election and hours that polling places shall be open.

(3) No notice to or approval by the commission is required prior to engaging in the process set forth in 205 CMR 124.04(1).

(4) For purposes of 205 CMR 124.00, unless a city opts out in accordance with the seventh proviso of M.G.L. c. 23K, § 15(13) by a vote of the local governing body, if the gaming establishment is proposed to be located in a city with a population of at least 125,000 residents as enumerated by the most recent enumerated federal census, "host community" shall mean the ward in which the gaming establishment is to be located for the purpose of receiving a certified and binding vote on a ballot question at an election. If a city opts out, it must do so prior to the call for the election by the applicant, and it shall publish notice of such determination in the manner provided by 205 CMR 124.04(1).

124.05: Conduct of the Election

In addition to the provisions of the Massachusetts General Laws applicable to elections in the Commonwealth and 950 CMR: *Office of the Secretary of the Commonwealth* the following shall apply to host community elections:

(1) The polls may be open as early as fifteen minutes before 6 a.m., and shall be open not later than 7:00 A.M., and shall be kept open at least 13 hours. The polls shall not be closed before 8:00 P.M.

(2) The question on the ballot submitted to the voters shall be worded as follows: "Shall the (city/town) of _____ permit the operation of a gaming establishment licensed by the Massachusetts Gaming Commission to be located at _____ [description of site] _____? YES _____ NO _____".

(3) In the event that a host community has entered into a host community agreement with more than one applicant, a separate question, as provided in 205 CMR 124.05(2), shall be posed on the ballot relative to each applicant. The questions shall be preceded with an instruction that the questions are not presented in any particular order and that a voter may vote 'yes' on both questions, 'no' on both questions, or 'yes' on one and 'no' on the other. The order that the applicants appear on the ballot shall be determined by the host community by drawing the names of the applicants by lot at a publicly designated time and place.

(4) The ballot question(s) shall be accompanied on the ballot by a fair, concise summary of the host community agreement as determined by the city solicitor or town counsel.

124.06: Reimbursing the Expenses of the Host Community Election

(1) The applicant shall reimburse the municipality that conducts the election for its reasonable and customary expenses related to the host community election within 30 days after the election, provided, however, that if the election occurs as part of a general election, the applicant shall be responsible only for that portion of the general election expenses that related to the host community election. The expenses may include the costs for staffing and securing all voting locations, printing of the ballots, and all related costs as prescribed by the city or town clerk for conducting elections.

(2) Unless otherwise agreed by the parties, within seven days of the election, the municipality shall provide the applicant with an itemized invoice of the costs for which it seeks reimbursement.

(3) The commission shall deny an application for a gaming license if the applicant has not fully reimbursed the municipality as provided in 205 CMR 124.06(1).

(4) The applicant shall disclose the reimbursement in accordance with 970 CMR 1.19: *Contributions from Gaming License Applicants and Persons Holding Such Licenses*.

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(5) If the result of the election is in the negative and the applicant fails or refuses to reimburse the municipality that conducted the election in accordance with 205 CMR 124.06(1) for all or any part of its cost, then in an action by the municipality against the applicant in a court of competent jurisdiction, the municipality shall be entitled to recover treble the disputed costs of the election as determined by the court together with the municipality's reasonable attorney fees and cost of that action. The applicant's request for an election under 205 CMR 124.02 shall constitute its binding agreement to abide by this provision.

124.07: Post-election

(1) If a majority of the votes cast in a host community in answer to the ballot question is in the affirmative, the host community shall be taken to have voted in favor of the applicant's license.

(2) In accordance with M.G.L. c. 23K, § 15(13), if a ballot election question is voted in the negative, the applicant shall not submit a new request to the governing body for a new election within 180 days of the last election.

(3) The city or town clerk or election officer shall provide a certified copy of the election results to the Commission and to the license applicant and the applicant shall include the certified copy in its license application to the commission in accordance with 205 CMR 119.00: *Phase 2 Application* and M.G.L. c. 23K, § 15(13).

REGULATORY AUTHORITY

205 CMR 128.00: M.G.L. c. 23K, §§ 4(34), 4(37), 5 and 15(13).

NON-TEXT PAGE