

# 990 CMR: HAZARDOUS WASTE FACILITY SITE SAFETY COUNCIL

## 990 CMR 8.00: LOCAL ASSESSMENT COMMITTEE

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#### 8.01: Time of Formation

Not more than 30 days after receipt of a Notice of Intent to construct, expand, maintain and operate a hazardous waste facility on a site in a named city or town, or receipt of notification from the Department that a site in the city or town is on the final suggested site list established by the Council, whichever is later, the chief executive officer of such city or town shall take appropriate action to establish a local assessment committee.

#### 8.02: Membership

- (1) The local assessment committee shall be comprised of:
  - (a) the chief executive officer, or his designee, who shall serve as its chairman;
  - (b) the chairman of the local board of health or his designee;
  - (c) the chairman of the local conservation commission or his designee;
  - (d) the chairman of the local planning board or his designee;
  - (e) the chief of the fire department or his designee;
  - (f) four residents of the city or town, appointed by majority vote of the individuals specified in 990 CMR 8.02(1)(a) through (e), at least three of whom shall be residents of the area of the city or town most immediately affected by the proposed facility; and
  - (g) not more than four members nominated by the chief executive officer and approved by a majority vote of the city council, board of aldermen, or board of selectmen of said city or town, who may include representatives of abutting communities provided that each representative of an abutting community has been approved by a majority vote of the city council, board of aldermen or board of selectmen of said abutting community.
- (2) If in any community one person holds more than one of the positions specified in 990 CMR 8.02(1)(a) through (e), he shall designate one other person to serve as a member of the local assessment committee for each such additional position that he holds, so that there shall be five separate individual members corresponding to those specified in 990 CMR 8.02(1)(a) through (e).
- (3) Upon formation of the local assessment committee, the chief executive officer shall submit to the Council and the Department a list of the names, addresses and criteria of selection of each member of said committee. The chief executive officer shall promptly notify the Council and the Department of any subsequent changes in the membership of the committee.

#### 8.03: Council Action in the Absence of Formation of a Local Assessment Committee

If a chief executive officer fails to take the actions required by 990 CMR 8.01, the Council shall itself promptly establish and appoint the membership of the local assessment committee. In selecting the members, the Council may consider suggestions from any citizen or official of the host community.

#### 8.04: Quorum

A majority of the members of the local assessment committee shall constitute a quorum.

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### 8.05: Majority Vote

All actions and decisions of the local assessment committee pursuant to M.G.L. c. 21D shall be by majority vote of a quorum, except that authorizing the signing of a siting agreement or submission of a negotiation status report shall be by a majority vote of the membership.

### 8.06: Powers and Duties

The local assessment committee shall have the following powers and duties:

- (1) to represent generally the best interests of the host community in all negotiations with the developer of a proposed facility in said community;
- (2) to negotiate with the developer the detailed terms, provisions and conditions of a siting agreement to protect the public health, the public safety and the environment of the host community, as well as to promote the fiscal welfare of said community through special benefits and compensation;
- (3) to receive and expend such technical assistance and planning grants as may be made available pursuant to M.G.L. c. 21D, § 11 and 990 CMR 9.00, and such other funds as may become available from any other source, public or private;
- (4) to enter into a nonassignable contract binding upon the host community and enforceable against said host community in any court of competent jurisdiction, by the decision to sign a siting agreement pursuant to M.G.L. c. 21D, § 13 and 990 CMR 11.00 and 14.00;
- (5) to cooperate wherever possible with abutting communities in negotiations with the developer over compensation for said abutting communities;
- (6) to adopt such rules, regulations, procedures and standards as may be necessary to carry out its functions and perform its duties under M.G.L. c. 21D and 990 CMR; and
- (7) to appoint two residents of the host community who shall serve without compensation and who may participate in and vote with the Council upon matters concerning site selection in said community; provided, however, that in the event the developer names more than one site for the proposed project by submitting more than one Notice of Intent, said residents shall vote only on matters pertaining to that individual Notice of Intent that names a site in the community they represent And further provided that in the event the developer utilizes the site suggestion process pursuant to 990 CMR 7.00 and the Council establishes a final list of suggested sites, any residents appointed to the Council to represent a community which contains a site on said list shall vote only on matters pertaining to that site.

### 8.07: Compliance with the Open Meeting Law

- (1) Applicability of the Open Meeting Law. Meetings of a local assessment committee are subject to the Massachusetts Open Meeting Law, M.G.L. c. 39, §§ 23A-238.
- (2) Executive Sessions. In addition to the purposes for which executive sessions may be held pursuant to M.G.L. c. 39, § 238, an executive session of a local assessment committee may also be held to discuss strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions and provisions of said siting agreement if such discussion or consideration in an open meeting would have a detrimental effect upon the negotiating position of a local assessment committee in the establishment of the terms, conditions and provisions of said siting agreement.

### REGULATORY AUTHORITY:

990 CMR 8.00: M.G.L. c. 21D, § 4.