



CANNABIS EQUITY ILLINOIS COALITION



COMMUNITY BENEFITS AGREEMENTS (CBA)

MAY 2022

The Cannabis CBA Toolkit

The Cannabis Equity Illinois Coalition welcomes you to use our Community Benefits Agreement toolkit to develop your own plan to bring positive investment and opportunity to your community.

pg. 4

What is a CBA?

The basics about Community Benefits Agreements and how they can be used to benefit the community.

pg. 5

How do CBAs work in cannabis?

Providing you specifics on how to use CBAs in cannabis.

pg. 6

Who is in your Coalition? How can you organize them?

Helping you identify allies for the CBA, and develop your CBA strategy.

pg. 8

How do you find leverage for a CBA?

Looking at the needs of cannabis businesses, and where opportunities for community action can take place.

pg. 9

What should be prioritized in the CBA?

Strategizing to select the most important items to the community to prioritize.

pg. 12

Negotiating & drafting the CBA

What goes into the CBA and how is it written?

pg. 13

Promote the CBA

Time to promote and celebrate your CBA!

Who are we?



The Cannabis Equity Illinois Coalition is a grassroots nonprofit founded in Chicago in 2019 fighting to make sure the legalization of cannabis in Illinois repairs harms from the War on Drugs, reinvests in the people and communities most impacted, and prioritizes people over profits.

The Coalition organizes community programming to expand record-clearing and re-entry support in Chicagoland and across Illinois, educates communities about their legal rights and how to protect them, informs people of entrepreneurial and employment opportunities in the cannabis industry, and much more. The Coalition uses its grassroots strength to advocate for cannabis businesses to sign onto Community Benefits Agreements (a “CBA”), tying the economic success of those businesses to impacted communities. The Coalition’s grassroots foundation shapes the development of the Coalition’s priorities, as we gather community feedback to ensure we fight for changes that will bring the largest benefit to communities.



The Coalition’s first lobby day | Springfield, IL | May 2019



Chicago Lawyers’ Committee for Civil Rights are civil rights lawyers and advocates working to secure racial equity and economic opportunity for all. We collaborate with grassroots organizations and other advocacy groups to root out and dismantle deeply entrenched systems of discrimination, racism, and economic oppression. We identify and disrupt patterns of discrimination.

Through longstanding partnerships with member law firms, we provide high quality legal assistance to clients and communities in litigation and transactional matters. We collaborate with community leaders, advocacy organizations, and attorneys to craft and implement community-based solutions and policy reform. We use a broad range of advocacy tools to support community-driven campaigns, including direct legal services, impact litigation, policy advocacy, community education, and coalition building.

HOW TO USE THIS GUIDE

Every community is different. You, and other leaders in your community, know the needs of your city, town, county, and region. This guide is a framework, not a path set in stone, that can and should be adapted to your needs and circumstances.

The Coalition can be a resource to you and your community as you organize a CBA campaign in your area. Whether you need support identifying community partners, want tips to strengthen your negotiating position, or seek to ensure the priorities of the CBA meet the needs of your community, please feel free to reach out to the Coalition's leadership at CannabisEquityIL@gmail.com.

What is a Community Benefits Agreement (“CBA”)?

Simply put, a Community Benefits Agreement (“CBA”) is a tool community members can use to ensure local developments provide benefits to their community. These benefits could include commitments to hire local workers or to address concerns related to the developments' impact on the community. It is a flexible tool that can be adapted to reflect each community's concerns and priorities.

A CBA is “a legally binding contract (or set of related contracts), setting forth a range of community benefits regarding a development project, and resulting from substantial community involvement.”^[1] A CBA is usually created through negotiations between a business and one or more community groups. It is a way for communities to hold developers accountable, and to ensure that a developer's commitments are kept.

Because it is a mutual agreement, each party to the CBA must be in amicable agreement to exchange something of value that benefits both parties. These bargained-for commitments are called ‘consideration’. A valid CBA can never be one-sided, or else it is not truly binding. Thus, the community must provide value in return for the commitments/actions of a business. Consideration does not have to be money, but could be public support for a project or a release of future legal claims.

Impactful CBAs result from effective organizing campaigns that secure commitments from a business. As a legally enforceable contract, it will describe specific actions the business agrees to take and include measures to address missed goals and requirements in return for consideration provided by the community.

A CBA is the result of community engagement and organizing. It is not an agreement agreed to solely by elected officials and a developer. Nor is it an agreement that only contains “self-monitoring” provisions or vague promises that community groups are pressured to agree to. An effective CBA should have clear commitments and be regularly monitored and legally enforceable. Getting a developer to agree to such a CBA requires a community to organize and demonstrate its power to affect the proposed development. This guide will explain how to organize a campaign in your area!

A Note about CBAs in the United States

Community Benefits Agreements are a newer strategy for ensuring that economic development is accountable to community concerns and goals. In 1997-8, a community organization known as the Los Angeles Alliance for a New Economy created one of the first CBA's between residents and developers in the area surrounding Hollywood's Kodak theater, host to the Oscar Awards Ceremony. In exchange for community support for city loans, developers promised to hire locally and pay a decent wage. A few years later, an even more ambitious CBA was negotiated between several community groups and the Staples Center, now home to the L.A. Lakers, Clippers, and Kings.

The use of CBA's spread across the country to projects in Milwaukee, Denver, Minneapolis, New York City, and other cities. Some have been successful, others, including the controversial Atlantic Yards CBA in Brooklyn, have been criticized for falling short. The success of CBA campaigns has often depended upon effective grassroots organizing, with legal advisers playing important supporting roles.

In late 2020, Chicago community activists scored a major win by passing a local ordinance that requires the new Obama Presidential Center and its partners to invest in affordable housing in the Woodlawn neighborhood. Still, while a significant win for the Woodlawn community, surrounding neighborhoods were not included in the current agreement. The status of those neighborhoods within any CBA has not been resolved. This is another example of the necessity of coalition-building, addressed in a section below.

In Illinois' growing cannabis industry, the Cannabis Equity Illinois Coalition signed the nation's first cannabis-related CBA with the Nature's Care Company in Chicago.
<https://www.clccrul.org/blog/2020/3/3/cannabis-equity-illinois-coalition-signs-first-in-the-nation-community-benefits-agreement-with-illinois-cannabis-operator-natures-care-company>

Some background on Cannabis in Illinois

Illinois has permitted the limited use of cannabis products since 2014, when it created a medical cannabis program. In the years following, the state loosened the requirements to be treated with medical cannabis. In 2020, the state permitted adult recreational cannabis use throughout Illinois. As part of this historic action, the state established a licensing program, with separate license requirements for cannabis growers, cannabis infusers, transporting organizations, and dispensaries. While dispensaries are legal throughout Illinois, local governments can prohibit dispensaries and/or set up certain zoning requirements for cannabis businesses in their jurisdictions.

The State of Illinois gives out licenses across 17 metro regions in Illinois, including: Bloomington, Champaign-Urbana, Chicago-Naperville-Elgin, Davenport-Moline-Rock Island, Peoria, Rockford, St. Louis, Springfield, and more. The number of licenses available vary by population for each region. The state has recently awarded another round of dispensary licenses, and you can find the list of winners here: <https://www.idfpr.com/profs/adultusecan.asp>.

Also, you can find somewhat current maps of existing dispensaries at <https://ilcannabismap.app/> or at <https://www2.illinois.gov/cannabis/Locations/Pages/default.aspx>

If you are not sure where to begin in tracking cannabis businesses moving into your community, please reach out to the Coalition, who will help you prepare for when those businesses try to move in.

Community Coalitions, Local Approval, and Leverage

IDENTIFY ALLIES: WHO IS YOUR COALITION?

Before you engage a cannabis business, you will need to build a coalition of organizations and people that represent the community and can speak to its needs. These partners could be formal organizations, such as non-profits or faith communities, or simply a set of existing community groups and people who share common goals. You should seek to identify groups that will be most affected by a development, as well as groups and individuals that have valuable expertise and influence.

As you learn more about potential cannabis businesses in your area, you may need to take extra time to educate your coalition partners on this topic. This is a new industry with lots of history to understand, which can be overwhelming. Are your partners familiar with cannabis legalization in Illinois? If not, perhaps a showing of an explainer video, like this excellent one provided by NBC could be helpful.[7] Ideally, each coalition member should understand how this particular business might have an impact locally. Passionate, engaged, and informed coalition members are essential to raising awareness and crafting the vision of how a CBA might look to the community.

Take the time to meet with your coalition members, do the hard work of hashing out your priorities, and find broad agreement on your most important goals. Be warned, this will take patience and sensitivity to the needs of your community. Having a broad coalition that truly represents community priorities is essential. It enhances the coalition's legitimacy, minimizes the risk that other local organizations will seek conflicting goals, and minimizes the ability of a developer or other opponents to claim that the coalition does not truly represent the community's interests.



Coalition members at a community event | Chicago, IL | October 2021

In addition to thinking about who should be included in the coalition, it is also important to develop shared goals and decide how the coalition will make decisions. Having a clear, democratic coalition structure that everyone agrees to and follows is very important. As you build your coalition, consider carefully who will join your negotiation team. This team must be representative of your coalition. The team must have time, energy, and skills to negotiate aggressively. Ideally, this includes leaders from several community organizations or interest groups. But, consider your representatives carefully. Allow people to operate within their passions and skill sets for particular tasks. Your most eloquent spokesperson might be a poor negotiator. Additionally, the coalition members who sign the final agreement will be responsible for ensuring the coalition's compliance - as well as reviewing the compliance of the business. Legal support is an essential component adding a layer of legal expertise that might expand beyond the purview of the Coalition to aid in drafting and negotiating the agreement.

While the full scope of coalition building is beyond the scope of this guide, many organizations have provided helpful guides to the nuts and bolts of this process.[5]

If you would like support with coalition building strategy, please reach out to the Cannabis Equity IL Coalition.

WHAT DOES THE BUSINESS NEED? AND WHAT IS YOUR LEVERAGE?

Community power and leverage are essential to an impactful CBA. Even projects with high visibility and strong community support for a CBA will require the support of outside allies to cross the finish line. See the example above of the Obama Presidential Center. There, the CBA required the support of sympathetic city council members to introduce and pass the ordinance that gave community members the necessary leverage. Each community will be different but look for opportunities where the business may need help - such as public support for a controversial zoning change or permission to build in a particular location.

For your CBA campaign, it is critical to understand what approvals the proposed business may need, the standards for getting those approvals, and the key decision-makers. Understanding when and how those approvals happen will shape your strategy and timing. Take the time to research a business's needs and strategize with your coalition about how best to address those. Many cannabis businesses will require land use approvals, such as a zoning change for their preferred location. Or perhaps the business is seeking a local subsidy or tax break. Maybe they need parking spaces. Regardless of the need, brainstorm with your coalition to come up with ideas that create a win-win for both parties and use these ideas to strengthen your position. Using both quantitative data (statistics and figures) and qualitative experiences (the narratives of those directly impacted) can strengthen and breathe life into your positioning.

Illinois law requires that municipalities and counties hold an open hearing on zoning change applications and similar approvals. Local governments must publish the time, date, and location of that hearing, with at least 2 weeks-notice, in a local newspaper. Every municipality will have its own process to publish details about zoning meetings, with some making those meetings more accessible than others. We encourage you to reach out to your local City or County Commissioner or Zoning Board for those details. If you need support with that outreach, please reach out to the Coalition.

WHY ARE COMMUNITY ZONING MEETINGS IMPORTANT TO THE CBA?

1. It is at those zoning meetings that your coalition must speak up about your concerns and priorities and call for the developer to commit to a CBA.
2. You should also know who has the power to approve a cannabis business or a change in zoning. If your city council needs to approve their business, you should meet with your council members to share your concerns and goals, and your demand that the developer commit to a CBA to address them.



Early Coalition planning meeting | Chicago, IL | April 2019

3. If an appointed board must approve the business, make sure you find their public feedback process or contact information.

If it is a small, local company, perhaps you focus on items like local hiring, resource fairs, and other tangible community benefits. If the company is a multi-state operator with nationally known board members, you should make larger asks on top of local needs, like donations to community organizations, investing in affordable housing, and more.

WHAT TYPE OF REQUESTS CAN YOU INCLUDE IN A CBA?

- Based on the leverage the community has built through its coalition, it is important to then look at the company you are approaching to enter the CBA with.
- Is this an independently owned, local company?
- Is this a publicly traded company with operations in other states and countries?

Ultimately, your demands must be ambitious but reasonable. Regardless of size, the company will need to turn a profit at each location.

Every community is unique, and your priorities should reflect community goals and concerns related to the proposed development. Separate your requests to those specific to the business - for example, hiring local residents or mitigating environmental concerns due to cannabis growth/sales, from local, but more general community requests. General requests, like funding a local food bank, while helpful to the community, might unfortunately hurt your ability to negotiate and gain widespread support. Ideally, your CBA terms are related to the business itself. Wherever possible, the community's goals should be concrete and not so tangential that the business feels that the CBA is nothing more than a thinly disguised shakedown.

Support for people harmed by the criminalization of cannabis should be integrated into your specific asks. There are many ways they could integrate this into the CBA, which will differ based on the company and the resources they have access to. Some examples include supporting community-led expungement clinics, donating to local reentry programs, dedicating resources for policy advocacy to end permanent punishments, and more.

Ultimately, the key is right-sizing your goals - ambitious, but reasonable. One dispensary will not create an entirely new employment agency to serve the community. This dispensary might, however, be willing to offer its jobs first to participants in pre-existing local jobs programs.

The CEIC supports community-led efforts to create opportunities for the individuals and communities most harmed by the War on Drugs. Please reach out if you would like the CEIC to help you strategize about how best to reach this and other vital goals.

It is important to translate your goals and priorities into concrete commitments that can be measured. The following are examples of negotiated goals from previous CBA's negotiated between a coalition and a business development. Feel free to pick or choose these as the community prefers. This list is not exhaustive, but simply to offer examples of potential community goals.

EMPLOYMENT:

- A commitment to (or best efforts towards) x% of work-hours being provided by local residents or graduates of a local training partnership, including prioritizing groups such as individuals who have been harmed by the war on drugs. This can include an agreement to host job fairs in the community and/or publicize job openings first through local partners.
- Including hiring people from the community at all levels of the organizational structure
- Guaranteed living wage and benefits for permanent employees.

FUNDING:

- Commit X% of their profits to select community organizations over a given period of time.
- Commit a flat dollar amount to related local events, such as an expungement clinic or job fair, or other community-oriented fundraisers.
- Larger brands may consider contributing resources for community advocacy projects, to support larger initiatives like automatic expungement or greater community investment.

ENVIRONMENTAL PROTECTION:

- Commit to limiting the environmental impacts of their operation beyond what the law requires.
- Fund, lead and/or volunteer for local community beautification activities.

OTHER LOCAL ECONOMIC DEVELOPMENT:

- Commit to contracting with local businesses, as well as taking significant steps to support disadvantaged business enterprises and minority-owned-businesses for business needs - such as product sourcing, office/warehouse equipment, printing, packaging, art, construction, and janitorial labor.

COMMUNITY EDUCATION:

- Sponsor an expungement and resource fair for people with records.
- Host community open houses to educate the community about the cannabis plant & its medicinal values, the cannabis industry, and the impact of the war on drugs.
- Host Know Your Rights events and distributing educational resources.

Other, much larger CBA's have included such things as LEED building standards, a grocery store in a food desert area, seed money for a job referral hub, development of a local park, a childcare center, among many others. Again, the key will be right sizing your goals to be ambitious, but achievable.

Beyond simply choosing your goals, you must set clear, concrete benchmarks for achieving these goals. Two key questions must be answered for each goal: you must determine how you will define satisfactory progress or results, and you must create enforcement mechanisms for each goal if performance falls short. The enforcement provisions of your demands are essential

As experts have noted, some thoughtful, well-negotiated CBA's have struggled at this point. For example, your coalition might commit to providing public support to a business before it breaks ground, in exchange for actions after the business is open. Once the business is open, how will your coalition ensure the business follows through? Your coalition can partly manage this threat through careful legal language and clear commitments. For example, some companies have skirted their obligations by including goals that only commit to providing "their best effort". For example, the company might commit to hiring 25% of their workforce from surrounding neighborhoods or make their best effort to do so. This is a start, but a smart coalition will include some actions as part of this effort. Instead of 25% + best efforts, how about 25% + hosting 3 local job fairs + a specified local benefits/community manager + a requirement that x% of permanent employees are local?

Further, firm goals require clear enforcement. In one recent cannabis-related CBA, the business committed to making its best efforts towards ensuring 75% of its employees were from impacted communities within 12 months, running local hiring fairs, paying all employees a living wage (defined in detail), and that 50% of new jobs would be full-time, among others in this section. Reports were to be provided by set dates. If any of the goals in this section were not met, the business committed to a \$5,000 per quarter penalty, paid to mutually-agreed-upon community organizations.



Coalition member Steph, speaking in support of a CBA at a community meeting | Chicago, IL | February 2020

Negotiating your CBA

Now that your coalition is mostly assembled and has decided on clear goals, and clear methods to measure and enforce those goals, you need to approach the developer/business to negotiate and talk through your demands. Make sure that you provide plenty of time to negotiate before key approval dates. In some cases, it might be worthwhile to bring in local elected officials, though always be sure that you have a sense of if those officials support your cause.

Let's hear from an expert:

https://www.forworkingfamilies.org/sites/pwf/ASK/step_nine.html

Drafting your CBA

Examples of language that can put your priorities into legal, binding language can be found in existing CBAs. A sample CBA is attached in Appendix A. Have your coalition read through items carefully and always seek legal help.

Here, goals and enforcement provisions should be clear, concrete, and enforceable. Some examples of enforcement provisions and terms available here include:

- **Specific Performance:** the requirement that the business do specifically what it promised within a period of time. For example, if a customer paid a bakery \$100 to frost a cake and deliver it on Tuesday, and the bakery failed to do so, specific performance would require that the bakery the cake be frosted and delivered ASAP, directly to the party.
- **Penalties:** monetary penalties, paid to a party at a set rate, as a result of the other party's failure to meet its obligations. In the cake example, the bakery might pay \$20 per day to the customer for each day the cake was late.
- **Liquidated damages:** money damages, paid to a party, the amount calculated as the estimated value of the services that were not provided. In the cake example, the bakery might have to pay \$120 to the customer, so the customer could get a similar cake on time from a different bakery.
- **Right to Cure:** a provision that allows a party a set amount of time to comply with its previous commitments
- **Mediation clause:** a provision that commits all parties to negotiating their differences in a non-judicial mediated process. The mediator is impartial and cannot force an agreement or make binding decisions.
- **Arbitration clause:** an arbitration clause often follows the mediation clause and requires the parties to submit all disputes not settled in mediation to a final and binding arbitration.

Again, make sure to seek legal help in drafting the precise language necessary for an effective CBA.

Ensuring your CBA is effective

Congrats! Despite all the challenges, you've created and signed a Community Benefits Agreement. You've had the joint press conference. Now what?

Accountability is key here. Assign a member (or members) of your coalition to receive and share those regular reports. Read and re-read the reports to make sure that: a) the reports arrived on time, b) the reports arrived in the format that you had previously agreed-upon, c) the business met the coalition's goals, and d) the goals were not changed without your consent - for example, the business now defines full-time jobs as 30 hours/week, not the 40 hours/week as originally negotiated.

And, if any of these are lacking, start taking actions in line with the enforcement provisions of the CBA. Be sure to celebrate and thank businesses that do follow the CBA and are genuinely interested in supporting the community.

How to promote your CBA

Congratulations on agreeing to your CBA! Now comes the fun part, letting your community know all about it! It takes a ton of work to create a CBA, so its critically important that there is publicity around your huge accomplishment.

Some ways you can spread the word:

- **Social Media campaign:** your partners can all share the big news across social media, tagging one another and relevant influencers to get the word out.
- **Press Release:** Sending out a press release to the local press announcing the agreement is a good way to get legacy media aware of the story.
- **Press Conference:** If you host a press conference, that can be a great way for more media and the public to engage with your coalition and learn more about the CBA!

Conclusion

APPENDIX A: SAMPLE LANGUAGE FOR RELEVANT SECTIONS OF A CBA (SEE SEPARATE DOCUMENT)

[1] Julian Gross, Community Benefits Agreements: Definitions, Values, and Legal Enforceability, *Journal of Affordable Housing*, Vol. 17:1-2, Fall 2007/Winter 2008. 37. https://www.forworkingfamilies.org/sites/default/files/publications/CBAs_Definitions_Gross_2008.pdf

[2] Id. 39-40.

[3] Chicago Lawyer's Committee for Civil Rights, Cannabis Equity Illinois Coalition Signs First-In-The-Nation Community Benefits Agreement with Illinois Cannabis Operator Nature's Care Company. Press Release, March 3, 2020. <https://www.clccrul.org/blog/2020/3/3/cannabis-equity-illinois-coalition-signs-first-in-the-nation-community-benefits-agreement-with-illinois-cannabis-operator-natures-care-company>

[4] Much of the step-by-step information in the following three sections has been taken directly from the Partnership for Working Families' excellent Community Benefits 101: A Framework for Success. Find the tool and many practitioner videos here: <https://www.forworkingfamilies.org/sites/pwf/ASK/#>

[5] See for example: The Prevention Institute's Developing Effective Coalitions: An Eight Step Guide. https://www.preventioninstitute.org/sites/default/files/uploads/8steps_040511_WEB.pdf, as well as information provided by the Electronic Frontier Alliance: <https://www.eff.org/electronic-frontier-alliance/coalition-tips>, the Western Organization of Resource Councils: http://www.worc.org/media/Work_in_Coalitions.pdf, and many others: <https://www.thecampaignworkshop.com/blog/advocacy/coalition-building>, https://www.communitycatalyst.org/doc-store/publications/strength_in_numbers_a_guide_to_building_community_coalitions_aug03.pdf. An excellent all-around guide produced by the USC Dornsife Equity Research Institute can be found here: https://dornsife.usc.edu/assets/sites/1411/docs/Primer_on_Structural_Change_web_lead_local.pdf

[6] <https://www.sj-r.com/story/news/2021/07/15/new-law-creates-two-more-lotteries-cannabis-dispensary-licenses/7978884002/>

[7] Cannabis in Illinois, an NBC5 Special. <https://www.youtube.com/watch?v=XayX0Wr4tJk>

[8] See <https://www.idfpr.com/profs/adultusecan.asp>, and <https://www.chicago.gov/city/en/sites/cannabis-information-center/home/starting-a-cannabis-business.html> for a more detailed view of the process.

ADDITIONAL RESOURCES:

- Excellent how-to guide on effective CBA's: <https://www.forworkingfamilies.org/sites/default/files/publications/Effective%20CBAs.pdf>
- Good FAQ about CBA's: <https://www.forworkingfamilies.org/page/community-benefits-101>
- Another good example of CBA's at work: <https://shelterforce.org/2016/10/21/making-community-benefits-agreements-count/>
- Another toolkit example: <http://www.investinneighborhoods.org/wp-content/uploads/2020/10/CBAToolkitforWebsite.pdf>



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