



CITY COUNCIL AGENDA STATEMENT



March 26, 2019

File ID: 19-0113

TITLE

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING VARIOUS SECTIONS OF THE CHULA VISTA MUNICIPAL CODE (CVMC) TO CLARIFY PROVISIONS REGARDING ILLEGAL COMMERCIAL CANNABIS CONDUCT AND PENALTIES, INCLUDING CVMC SECTIONS 1.04.010, DEFINITION OF RESPONSIBLE PARTY, 1.41.110, CIVIL PENALTIES, 5.19.020, DEFINITIONS, AND 5.19.280, ENFORCEMENT AND PENALTIES (FIRST READING)

RECOMMENDED ACTION

Council place the ordinance on first reading.

SUMMARY

This proposed ordinance amends Chula Vista Municipal Code sections 1.04.010, 1.41.110, 5.19.020 and 5.19.280 to clarify and improve the consistency of language regarding violations of the Chula Vista Municipal Code, including penalties for violations of the commercial cannabis provisions contained in Chapter 5.19.

ENVIRONMENTAL REVIEW

The proposed ordinance amending Chula Vista Municipal Code Section 1.04.010, Definition of Responsible Party, Section 1.41.110, Civil Penalties, Section 5.19.020, Definitions of Commercial Cannabis Activity and Manager, and Section 5.19.280, Commercial Cannabis Enforcement and Penalties has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the state CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

In March of 2018, City Council approved Ordinance 3418, which added Chapter 5.19 to the Chula Vista Municipal Code ("CVMC") to regulate commercial cannabis in the City of Chula Vista. At that time, City

Council approved the assessment of civil penalties up to an amount of \$10,000 per violation per day for violations of Chapter 5.19.

Chapter 1.41 of the CVMC contains general provisions regarding the assessment of civil penalties for code violations. The current text of section 1.41.110 identifies a maximum civil penalty of \$2,500 for violations, with an exception for violations of the land grading provisions contained in chapter 15.06. In order to provide consistency and clarity, Staff now recommend that section 1.41.110 be amended to:

- specify that violations of the commercial cannabis provisions in chapter 5.19 are also exempt from the maximum \$2,500 civil penalty;
- reiterate that violations of chapter 5.19 are subject to a civil penalty of up to \$10,000 as prescribed in 5.19.280; and
- clean up remaining language in the section.

Staff additionally recommend that language in 1.04.010, 5.19.020, and 5.19.280 be amended to more precisely reflect what is prohibited and who is responsible when a violation occurs. The recommended amendments would improve the clarity of the provisions and enhance the City's ability to enforce its municipal code.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

The subject amendments to sections 1.04.010, 1.41.110, 5.19.020, and 5.19.280 improve the City's capacity assess civil penalties for violations of the municipal code. However, it is difficult and speculative to predict when such penalties would be recovered and in what amounts.

ONGOING FISCAL IMPACT

The subject amendments to section 1.04.010, 1.41.110, 5.19.020, and 5.19.280 improve the City's capacity assess civil penalties for violations of the municipal code. However, it is difficult and speculative to predict when such penalties would be recovered and in what amounts.

ATTACHMENTS

1. Proposed ordinance
2. Proposed amended 1.04.010 red-line strikeout version
3. Proposed amended 1.41.110 red-line strikeout version
4. Proposed amended 5.19.020 red-line strikeout version
5. Proposed amended 5.19.280 red-line strikeout version

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