

Item 11
Written Communications

Sheree Kansas

From: Kerry Bigelow
Sent: Tuesday, February 27, 2018 8:14 PM
To: Sheree Kansas
Subject: FW: Proposed Revisions to Chula Vista Marijuana Ordinance Proposal
Attachments: Issues and Proposed Revisions to Chula Vista Marijuana Business Proposal Feb 22nd.docx

Can you please make sure the attachment is part of the email communications from Cynara Velazquez? (There was a link to it at the bottom of her email.)

Kerry Bigelow, MMC | City Clerk | Office of the City Clerk
276 Fourth Avenue | Chula Vista, CA | 91910 | (619) 407-3590 | kbigelow@chulavistaca.gov

Please note that email correspondence with the City of Chula Vista, along with attachments, may be subject to the California Public Records Act, and therefore may be subject to disclosure unless

From: Leslie Wolf Branscomb
Sent: Tuesday, February 27, 2018 8:08 PM
To: Kerry Bigelow <KBigelow@chulavistaca.gov>
Subject: FW: Proposed Revisions to Chula Vista Marijuana Ordinance Proposal

Here is the email we received from Cynara, but what Pat is referring to is in the link at the bottom; I'll save that separately and send to you.

Leslie Wolf Branscomb
Sr. Council Aide to Councilmember Pat Aguilar
(619) 495-7230

From: [REDACTED] **On Behalf**
Of Cynara Velazquez
Sent: Tuesday, February 27, 2018 11:46 AM
To: Patricia Aguilar; Leslie Wolf Branscomb
Subject: Proposed Revisions to Chula Vista Marijuana Ordinance Proposal

Hi Pat,

Attached are my proposed revisions to the Chula Vista Ordinance.

The first issue we have, I'm guessing, may just be a drafting error. The proposal states that people get landlord authorization if they are entering into a lease, but they don't say anything about if they aren't the owner of the building, but are planning on buying it - its a huge loophole, because this would mean people could apply for properties they don't have access to. This should be revised to say they need owners authorization if the owner isn't the applicant, period. (regardless of whether they are entering into a lease, escrow or other situation).

Also, we continue to be very concerned by the disqualification of applicants that were penalized for marijuana businesses prior to 2015. Prior to 2015, marijuana zoning rules were relatively murky and undefined in many jurisdictions and at the state level. Many marijuana businesses that had operated with at least some level of permission from their local jurisdiction were later fined due to subsequent changes to city code. This does not

mean they were a bad operator, simply that the code had changed and they closed after receiving notice from the city. This was a very common scenario, and by excluding them, this could prejudice otherwise good actors.

We are also concerned that the disqualification for criminal activity is overly broad, and excludes people whose crimes have been expunged, or people who had a DUI more than ten years in the past. We believe that the expunged felonies, and non-violent misdemeanors and felonies more than 10 years old should not lead to disqualification.

All other issues are listed in the attached document.

Thank You for your work!

Cynara Velazquez



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Issues and Proposed Revisions to Chula Vista Marijuana Business Proposal

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Issue: The address requirement for phase one does not require premise owners approval if premise is not leased nor owned by the applicant.

This could lead to speculative applicants who have not even acquired and may not have the ability to acquire a suitable property monopolizing the lottery. If the current owner of the property at the time of application is not the applicant, it should be required that the owners' permission is obtained.

Citation: Page 14, Section 5.19.050.A.2 City License Application Process. – Site Identification Phase 1

2. Site Identification. Phase One Applicants must also identify and submit a proposed site for its proposed Commercial Cannabis Business. Such submittal shall include the address and a general description of the proposed site location. In the event the site will be leased from another Person, the Applicant shall be required to provide a signed and notarized statement from the Owner(s) of the site on a form approved by the City acknowledging that the Owner(s) of the site: (a) has read this Chapter; (b) acknowledges and agrees to comply with all Premises Owner requirements set forth herein; and (c) the site is available for the operation of the

Commercial Cannabis Business on terms already agreed to or to be negotiated with the Applicant that are or shall be consistent with the requirements of this Chapter.

Suggested Revision: Require that Phase One Applications be submitted for an applicant AND their proposed marijuana business location.

2. Site Identification. Phase One Applicants must also identify and submit a proposed site for its proposed Commercial Cannabis Business. Such submittal shall include the address and a general description of the proposed site location. In the event the site ~~will be leased from another Person~~ is not currently owned by the applicant, the Applicant shall be required to provide a signed and notarized statement from the Owner(s) of the site on a form approved by the City acknowledging that the Owner(s) of the site: (a) has read this Chapter; (b) acknowledges and agrees to comply with all Premises Owner requirements set forth herein; and (c) the site is available for the operation of the Commercial Cannabis Business on terms already agreed to or to be negotiated with the Applicant that are or shall be consistent with the requirements of this Chapter.

Issue: The restriction on applicants who have been previously fined for marijuana businesses is too broad.

This restriction includes any fines from any jurisdictions, not just Chula Vista. Prior to 2015, marijuana zoning rules were relatively murky and undefined in many jurisdictions and at the state level. Many marijuana businesses that had operated with at least some level of permission from their jurisdiction were later fined due to subsequent changes to city code.

Citation: Page 14, Section 5.19.050 A.4.c

4. Phase One applications accepted by the Finance Director as minimally qualified shall be forwarded to the Police Chief for review and completion of any and all required background checks. Phase One Applications may be rejected by the Police Chief for any of the following reasons in his/her discretion:

..

f. The Applicant, or any Owner, Officer, or Manager has been adversely sanctioned or penalized by the City, or any other city, county, or state, for a material violation of state or local laws or regulations related to Commercial Cannabis Activity or to pharmaceutical or alcohol licensure.

Proposed Revision:

f. The Applicant, or any Owner, Officer, or Manager has been adversely sanctioned or penalized by the City, or any other city, county, or state, since **January of 2015**, for a material violation of state or local laws or regulations related to Commercial Cannabis Activity or to pharmaceutical or alcohol licensure.

Issue: The exclusion for a past felonies is overly broad, not allowing for mistakes in the far past to prejudice individuals today.

Citation: Page 14, Section 5.19.050 A.4.c.

4. Phase One applications accepted by the Finance Director as minimally qualified shall be forwarded to the Police Chief for review and completion of any and all required background checks. Phase One Applications may be rejected by the Police Chief for any of the following reasons in his/her discretion:

..

c. The Applicant or any Owner, Officer, or Manager has been convicted of a felony

Proposed Revision: Limit this to felonies for which the applicant was convicted within the last ten years, to exclude conviction long since served, also exclude any felonies which have been expunged. We also recommend that these limitations to prior convictions also apply to felonies committed by a landlord.

Issue: The Phase One Application Process is not clearly described

The text makes reference to a deadline for submittal, but it does not clarify how long, prior to this deadline, applications will be available, and what staff assistance or interactions will be possible prior to this deadline. It also appears that retail and non-retail cannabis businesses are subject to time limits, despite there being no limit on non-retail businesses.

Citation: Page 14, Section 5.19.050.A.4 - City License Application Process.
The following procedures shall govern the application process for the issuance of any City License under this Chapter.

- A. Phase One Application Process
- ...

Suggested Revision:

The following procedures shall govern the application process for the issuance of any City License under this Chapter, which clarifies a turn-in window for phase one applications and clarifies that the only retail locations are subject to the time limits.

1. Initial Application Review by Finance Director. The Phase One Application shall be reviewed by the Finance Director for completeness and to determine if City’s minimum City License qualifications have been satisfied. Phase One Applications may be rejected by the Finance Director for any of the following reasons in his/her discretion:
 - a) The application for a Retail cannabis Business is received after the designated time and date;
 - b) The application is not in the required form and/or is incomplete by the designated time and date....

Issue: No guidance as to the tax measure the council is contemplating putting on the June ballot, despite the ordinance being contingent on this tax measure passing.

Will it be popular? Will it be economically feasible for cannabis businesses?

Citation: Page 39, 5.19.290 Effectiveness Conditioned on Passage of Tax Measure.

The effectiveness of the ordinance enacting this Chapter is contingent upon voter approval and the continuous legal validity of a tax measure anticipated to be submitted to voters in June 2018. The tax measure would impose an excise tax, in an amount and form yet to be determined, on all Commercial Cannabis Businesses. In the event the proposed tax measure is not approved by the voters, or is suspended or invalidated for any reason, the provisions of this ordinance permitting Commercial Cannabis Businesses shall be void without any further action required by the City.

Suggested Revision: Please have the council provide some indication as to what tax measures are being considered and include some guidelines for such a measure in this ordinance.

Issue: The definition of “Youth Business” is so broad; it could include any eating establishment where families are present, and many other unforeseen businesses.

This could theoretically include Basket & Robbins and Kentucky Fried Chicken.

Citation: Page 9.

“Youth-Oriented Business” means any for-profit or non-profit business where the majority of individuals who patronize, congregate, or assemble at the business location are less than 21 years old.

Suggested Revision:

“Youth-Oriented Business” means any for-profit or non-profit business *that exclusively offers programs, services, or goods, for individuals under the age of 21*, and where the majority of individuals who patronize, congregate, or assemble at the business location are less than 21 years old.

Issue: By combining the limit on storefront and delivery retail operations, and mandating that at least one delivery only licensed be issued, the district limits may be fulfilled by delivery services, eliminating all storefront retailers.

Citation: Page 10, Section 5.19.040, A

“Storefront and Non-Storefront Retailer Licenses: Twelve (12) total, with no more than three (3) City Licenses available for Operation within each Council District. Of the three (3) City Licenses available for Operation within each Council District, no more than two (2) City Licenses shall be available for Storefront Retailers”

Suggested Revision: Eliminate the allowance of one license per council district to a delivery service.

“Storefront and Non-Storefront Retailer Licenses: Twelve (12) total, with no more than three (3) City Licenses available for Operation within each Council District. ~~Of the three (3) City Licenses available for Operation within each Council District, with no more than two (2) City Licenses shall be available for Storefront Retailers”~~

Issue: Storefront Retailers will only be allowed to sell adult use marijuana, depriving medical patients the benefits of the variety and customer service of a storefront location.

Citation: Page 10, Section 5.19.040, C

“Storefront Retailer City Licenses shall be limited to A-Licensees only. All other City License types may be available to A-Licensees and M-Licensees.”

Suggested Revision: Allow storefronts to sell medical marijuana along with adult use marijuana.

~~“Storefront Retailer City Licenses shall be limited to A-Licensees only. All other City License types may be available to A-Licensees and M-Licensees.”~~

Issue: An application may be denied, without the ability to resubmit for a year, due to a missing field.

This is overly punitive for a clerical error.

Citation: Page 12, 5.19.050, A.3.b

3. The Phase One Application shall be reviewed by the Finance Director for completeness and to determine if City’s minimum City License qualifications have been satisfied. Phase One Applications may be rejected by the Finance Director for any of the following reasons in his/her discretion:

...

b. The application is not in the required form and/or is incomplete.

Suggested Revision: Allow the applicant the opportunity to try to submit, receive feedback from staff, and make corrections prior to the retail application deadline.

The application is not in the required form and/or is incomplete *by the designated time and date.*

Suggested Revision: Limit this to material violations within the last three years, since prior to this the rules were ill defined in many jurisdictions and at a state level. We also recommend that this restriction applied to landlord violations.

Issue: Storefront Retailers cannot conduct deliveries

Citation: Page 24, Section 5.19.090 Operating Requirements for Storefront Retailers.

B. A Storefront Retailer shall not conduct Deliveries.

Suggested Revision: Allow Retailers to conduct deliveries