

Lemos, June

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Monday, May 10, 2021 1:08 PM
To: Gurewitz, Heather
Cc: Lemos, June
Subject: Comment re minor corrections to the ordinance for Item 8A

City Council and Staff,

Overall, the suggested revisions to our code seem good to me. However, there is a typo in the ordinance tonight that probably should be corrected prior to introduction. The ordinance references Business & Professions Code sections but in 9.30.100(D) the references are incorrect because they say "Professional" instead of "Professions," which is a very frequent typo--one I have made on numerous occasions.

In addition, the draft ordinance in 9.30.100(D) only lists 26057(b)(4), 26057(b)(5), 26057(b)(6) or 26057(b)(7) as the types of criminal convictions that are grounds for denial but the state regulations for licenses found in Business and Professions Code section 26057 also includes 26057(b)(2), which is a cross reference to other criminal convictions that are grounds for denial of a cannabis license. As such, this local code section should also reference 26057(b)(2) to follow the majority direction to mimic the state requirements regarding types of criminal convictions. (Subpart (b)(5), which is included in the draft ordinance, relates and refers to (b)(2) so it doesn't make sense to include one without the other.) Technically, 26057 is a single code section so we don't need to list the "26057" for each of the subparts of subdivision (b) of section 26057. Moreover, there is no practical effect in leaving out (b)(1), (b)(3), (b)(8), or (b)(9) even though those parts don't concern criminal background so you could just reference all of section 26057 without identifying the particular subparts. As a result, I think the best way to follow the state regulations is to just reference all of Section 26057.

As an aside, I would have left the applicability as it read before ("The applicant, his or her agent, or any person who is exercising managerial authority on behalf of the applicant") with the new "owner, or permittee" tacked on since the majority direction was to make sure it didn't extend to employees but I don't recall the City Council saying the prohibitions concerning criminal background shouldn't still apply to managers. Of course, this is a different issue than swapping out the code references in place of the prior local list of disqualifications, which definitely followed the majority direction as reflected in my notes. This draft ordinance took the "applicant, owner, or permittee" from 26057(b)(4) but the state doesn't use that language for all of the disqualifying categories, which have different applicability. To illustrate, (b)(4) applies to the specific parties we list in this draft but the other listed subparts have different lists or applicable parties, including (b)(6) and (b)(7) which apply to "The applicant, or any of its officers, directors, or owners" so it makes sense to make some minor revisions to this proposed code provision.

My total suggested revisions to 9.30.100(D) are as follows, with three alternatives, the first of which is the most clear and accurate, IMO:

"D. The applicant, owner, permittee, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has a criminal history that falls under Business and Professions Code Section 26057 with the exception of criminal activity that falls under Business and Professions Code Section 26059;"

"D. The applicant, owner, permittee, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has a criminal history that falls under the Business and Professions Code Section 26057,

subdivisions (b)(2), (b)(4), (b)(5), (b)(6), or (b)(7), with the exception of criminal activity that falls under Business and Professions Code Section 26059;"

"D. The applicant, owner, permittee, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has a criminal history that falls under Business and Professions Code Section 26057(b)(2), 26057(b)(4), 26057(b)(5), 26057(b)(6), or 26057(b)(7) with the exception of criminal activity that falls under Business and Professions Code Section 26059;"

If we specifically don't want to include managers, then the entire thing could be shortened to just say "the applicant" or "the relevant parties identified in Business and Professions Code section 26057" to ensure applicability parallel to the state regulations.

Thanks,

--Jacob

Lemos, June

From: Jenny Shattuck <jenxvann@yahoo.com>
Sent: Monday, May 10, 2021 6:33 PM
To: Lemos, June
Subject: 8A public comment

I am confused about 9.30.140 This seems like it should be in the inland land use and development code update, with the rest of the cannabis cultivation regulations, instead of the cannabis business license section as purposed. *I can not hear anything happening currently by anyone in city hall so am I submitting this comment early because it is unclear what is happening, closed captioning is not giving exact words so perhaps this item can be continued if sound is not fixed so all can participate.*

Jenny Shattuck