



CAMBRIDGE CITY COUNCIL

Quinton Y. Zondervan
City Councillor

To: Donna Lopez, City Clerk

From: Quinton Y. Zondervan, City Councillor

Date: April 18, 2019

Subject: Memorandum Submission

Please place the attached memorandum, “Proposed Amendments to the Cannabis Business Permitting Ordinance”, on the City Council agenda as “Communications and reports from Other City Officials” for the April 22, 2019 meeting.

Thank you.



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MEMORANDUM

To: Cambridge City Council

From: Quinton Zondervan, *City Councillor*

Date: April 18, 2019

Subject: Proposed Changes to the Cannabis Business Permitting Ordinance

Introduction

I offer these proposed changes in response to concerns raised by my colleagues and members of the public at the April 11, 2019 Ordinance Committee hearing. I believe these simple changes will address many of the concerns raised and will allow us to move forward expediently with one of the most equitable cannabis licensing processes in the Commonwealth. The biggest proposed change is to simply exclude non-priority applicants entirely, and to limit Priority B applicants to RMDs that are already operational or permitted in the city. I have included a red-lined version of the draft ordinance immediately following descriptions of the proposed changes.

Add low-income Cambridge residents to Priority A

This expands the definition of a “Group A Priority Applicant” to also give priority to Cambridge residents making below 50% of AMI. The window to qualify for Economic Empowerment designation has closed at the state level, so this would create an avenue for people to continue to qualify based on their economic status. A geographical preference on its own lets anybody buy their way in.

Change Priority B to Exclude Future RMDs

This changes the definition of a “Group B Priority Applicant” to exclude future RMDs (ones that aren’t already operating/permitted in the city at the time of ordination) from obtaining priority status. I’m also proposing here to exclude existing RMD’s from obtaining priority A status.



CAMBRIDGE CITY COUNCIL

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Changes to Permitting Preferences for Priority Applicants

Here I'm proposing to strike the two-year exclusionary period in section 4A, which means the city would ONLY issue permits to Priority applicants, indefinitely. I'm also proposing that we strike section 4B entirely, which would mean that the city would NEVER issue permits to non-Priority applicants. Future councils could of course change either of these, of course.

Changes to Permitting Requirements

Here I am proposing we strike sections 5A2 and 5A3 entirely. By excluding all non-priority applicants indefinitely, we are giving priority applicants a huge advantage. With that change, it makes sense to strike these sections because we don't want to put burdensome requirements on priority applicants that could ultimately undermine their success. As written, the city could deny a license renewal if a minority-owned business hires 49% minority employees. I don't think that is consistent with our intent. We should trust our priority applicants to have every incentive to lift up their own communities, without imposing additional restrictions on them and unnecessarily giving the city more power to oppose them.

Clarify Host Community Agreement Process

Where it is mentioned in both 5A10 and 6, we should clarify that the host community agreement is negotiated through the City Manager's office.

Enforcement

We should remove the "3 strikes you're out" provision in section 8 because even a single violation of selling to an underage minor should be punishable by denial of license.



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Chapter 5.50 Cannabis Business Permitting

1. Purpose

This ordinance is intended to create a separate local permitting requirement for Cannabis Retail Store, Cannabis Cultivator, Cannabis Product Manufacturer and/or Cannabis Transporter (collectively “Cannabis Business”) applicants to certify compliance with certain conditions in the public interest prior to being permitted to operate a Cannabis Business in the City. The City deems it to be in the public interest to give initial permitting preferences for Cannabis Businesses to Priority Applicants, as defined herein.

2. Definitions

Cannabis Business. A Cannabis Retail Store, Cannabis Cultivator, Cannabis Product Manufacturer and/or Cannabis Transporter.

Cannabis Cultivator. An entity licensed by the Massachusetts Cannabis Control Commission as a Marijuana Cultivator to cultivate, process and package cannabis or marijuana, and to transfer cannabis or marijuana to other cannabis or marijuana establishments, but not to consumers. A craft marijuana cooperative as defined by state regulation is a type of Cannabis Cultivator.

Cannabis Product Manufacturer. An entity licensed by the Massachusetts Cannabis Control Commission as a Marijuana Product Manufacturer to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other cannabis or marijuana establishments, but not to consumers.

Cannabis Retail Store. An establishment authorized to sell or otherwise transfer cannabis or marijuana products to consumers for use off the premises, but not to cultivate, manufacture, process, or package cannabis or marijuana products, in accordance with applicable state laws and regulations. A Cannabis Retail Store may be licensed to operate as a Cannabis or Marijuana Retailer or registered as a Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (hereafter “RMD”), or both, in accordance with applicable state laws and regulations.

Cannabis Transporter. An entity, not otherwise licensed by the Cannabis Control Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana, or



CAMBRIDGE CITY COUNCIL

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cannabis or marijuana products, solely for the purpose of transporting, temporarily storing, selling and distributing them to cannabis establishments, not for selling to consumers.

Priority Applicant. A person, corporation, or other legal entity applying for a Cannabis Business permit pursuant to this Chapter to operate in the City who is:

- a. **Group A Priority Applicant.** An Economic Empowerment or Social Equity Program Applicant certified as such by the Commonwealth’s Cannabis Control Commission; or a Women or Minority Owned business as certified by the Commonwealth; **or a Cambridge resident earning less than 50% of AMI in the tax year prior to application--** to be known as Group A Priority Applicants.

- b. **Group B Priority Applicant.** An RMD **operating** within the City **at the time of ordination** that will sell cannabis products in a Cannabis Retail Store pursuant to the Commonwealth’s medical use of marijuana laws, either alone or in addition to operating as a licensed marijuana retailer pursuant to the Commonwealth’s adult use of marijuana laws-- to be known as Group B Priority Applicants. **Those who qualify as Group B priority applicants cannot also qualify for Group A.**

3. Applicability

This Chapter shall apply to any proposed Cannabis Cultivator, Cannabis Product Manufacturer, Cannabis Retail Store, or Cannabis Transporter that is seeking licensure from the Cannabis Control Commission on or after the effective date of this Chapter. This Chapter shall not apply to RMDs that have already been permitted in the City and are not seeking licensure as a Cannabis Retail Store for retail cannabis sales prior to the effective date of this ordinance (“Existing RMD”).

4. Permitting Preferences for Priority Applicants

- a. ~~For the first two years from the effective date provided in Section 10 below, t~~**The** City shall issue a Cannabis Business permit pursuant to this Chapter only to



CAMBRIDGE CITY COUNCIL

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Priority Applicants. The City will only issue a Cannabis Business permit to a Group B Priority Applicant if, after issuance, there will be an equal or greater number of currently active Cannabis Business permits of that type held by Group A Priority Applicants, or if the applicant is an RMD that has been granted a special permit from the Planning Board and a Provisional Certificate of Registration from the Cannabis Control Commission before the effective date of this Chapter and is seeking licensure as a Cannabis Retail Store for retail cannabis sales.

~~b. After two years from the effective date provided in Section 10 below, the City may issue Cannabis Business permits to any qualifying applicant, whether or not such applicant is a Priority Applicant. However, after two years from the effective date in Section 10 below, the City shall continue to prioritize the issuance of permits to Priority Applicants when applications for Cannabis Business permits from both Priority Applicants and non Priority Applicants are pending approval by the City at the same time.~~

5. Permitting Requirements

a. In order to obtain a Cannabis Business permit pursuant to this Chapter, an applicant must certify that:

1. It will comply with employee pay standards set out in the City's Living Wage Ordinance;
- ~~2. It will hire at least 51% of minority, women and/or veterans as employees;~~
- ~~3. If applicant has a Board of Directors, the board makeup will be at least 51% minority, women and/or veterans;~~
4. It consents to unannounced, periodic compliance inspections by City officials of its Cannabis Business, including any Cannabis Business activities it conducts off-site;
5. It will comply with all State and local laws and regulations regarding its Cannabis Business operations;



CAMBRIDGE CITY COUNCIL

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City Councillor

6. No person under the minimum legal sales age shall be permitted to enter the Cannabis Business site unless such person possesses a state-issued registration card demonstrating that the person is a registered qualifying medical marijuana (cannabis) patient and the Cannabis Business site is, or is co-located with, an RMD;

7. It will work with the Cambridge Public Health Department to create and distribute educational materials to its customers as directed by the Cambridge Public Health Department;

8. It will sell only cannabis and cannabis accessories, and not other products, including tobacco products or alcoholic beverages of any kind;

9. It will comply with directives of the Police Commissioner and of the Director of Traffic Parking and Transportation, or their designees, regarding traffic measures to be taken at and near the Cannabis Business site; and

10. It has received a special permit from the Planning Board for its Cannabis Business and has entered into a Host Community Agreement with the City **through the City Manager's Office.**

b. No discretionary permit conditions may be imposed by the permit issuing authority pursuant to this Chapter.

c. A Cannabis Business permit shall be valid only for the applicant to which the Cannabis Business permit was issued, and only for the use and for the site approved in the permit. A proposed change of controlling ownership, change of use, or change of site shall require a new Cannabis Business permit.

6. Permitting Procedure

This Chapter shall be administered by the City's Inspectional Services Department, except that Priority Applicant status shall be certified by the Director of the Economic Development Division of the Community Development Department. Applications for Cannabis Business permits shall be obtained from and submitted to the Inspectional Services Department. If permit applications are properly completed and certified, and the conditions of this Chapter are met, the Commissioner of Inspectional Services (the "Commissioner") shall issue a Cannabis Business permit to the applicant. No public hearing process on individual applications shall be conducted.



CAMBRIDGE CITY COUNCIL

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A Host Community Agreement shall be negotiated with the City Manager.

7. Permit Expiration and Renewal

The Cannabis Business permit issued pursuant to this Chapter shall be subject to renewal annually. If the applicant fails to timely renew or fails to meet the requirements of this Chapter at the time of each renewal, including the Permitting Requirements in section 5 above, the Cannabis Business permit issued hereunder shall expire. A Cannabis Business permit will not be renewed if the permit holder has failed to pay all fines issued pursuant to this Chapter.

8. Enforcement

a. Failure to comply with this Chapter, including a failure to maintain the status of a Priority Applicant, failure to obtain or to comply with the provisions of a Planning Board special permit or State license to operate a Cannabis Business, or failure to comply with any applicable laws, may result in revocation by the City, through the Commissioner, of the Cannabis Business permit granted pursuant to this Chapter. Failure to meet the annual Cannabis Business permit renewal requirements will result in the expiration of the Cannabis Business permit. If a permit holder's State license is revoked, then the Cannabis Business permit issued by the City shall be revoked. A Cannabis Business permit may be revoked or not renewed if the permit holder has sold a cannabis product to a person under the minimum legal sales age ~~three times or more~~, or if the permit holder has failed to pay to the City all outstanding fines issued pursuant to this Chapter.

b. An applicant must cease to operate if it does not hold and maintain a valid Cannabis Business permit pursuant to this Chapter. Prior to revoking a Cannabis Business permit issued hereunder, the Commissioner will notify the Cannabis Business permit holder in writing and allow the Cannabis Business permit holder at least fourteen (14) days to submit written information to the Commissioner establishing that the Cannabis Business permit holder is in compliance with the terms of this Chapter. The Commissioner shall make a final determination on the Cannabis Business permit expiration or revocation thereafter. If a permit holder requests, the Commissioner in his discretion may hold a hearing before deciding whether to revoke a Cannabis Business permit.



CAMBRIDGE CITY COUNCIL

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c. Any violation of this Chapter by a permit holder shall be subject to a fine of up to \$300 for each violation. Each day a violation exists shall constitute a separate violation.

d. Fines pursuant to this Chapter may be issued pursuant to the non-criminal ticketing procedure in G.L.c.40, §21D. The Commissioner of Inspectional Services, the Police Commissioner, and the Commissioner of Public Health, or their designees shall be the enforcement officials for this Chapter.

9. Regulations

The Commissioner of Inspectional Services, as well as the Assistant City Manager for Community Development, with the approval of the City Manager, are authorized to promulgate regulations and to create the necessary application and permit forms, to implement this Chapter with respect to their respective responsibilities pursuant to this Chapter. Regulatory requirements implementing this ordinance may differ for Priority Applicants and non-Priority applicants, such that the regulatory burden for Priority Applicants is less burdensome.

10. Effective Date

This Chapter shall take effect on _____,
2019.

11. Severability

The provisions of this Chapter are severable, and if any part of this Chapter should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the Chapter, and the remainder of the Chapter shall remain in full force and effect.