

Susan Finucan

HAWKINS

FYI

From: Frank Hawkins [FrankH@cdpcn.com]
Sent: Monday, June 02, 2014 8:56 AM
To: Susan Finucan
Subject: Reduced CLV Bus License comments 6-3-2014
Attachments: Reduced CLV Bus License comments 6-3-2014.docx

Good morning can you pass my comments to the Councilman please. This is for the MME meeting this morning.

Frank

Submitted At Meeting *Recommending*
Date *6-02-2014* Item *6*

Definitions

"Medical marijuana dispensary" has the meaning ascribed to it in NRS 453A.115, and means a business that is registered under NRS 453A.322 and which acquires, possesses, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card. So we can sell related items?

6.95.080

D. Upon approval of a medical marijuana compliance permit, the Director shall prepare a notice to the State regulating authority pursuant to NRS 453A.322.3(a)(5), outlining that the proposed location has been found in conformance with land use and zoning restrictions and that the applicant is eligible to be considered for a medical marijuana establishment business license. Can or will the city send more than 12 dispensary applications if they meet the above?

6.80.090.

F. Prior to issuance or renewal of a license, medical marijuana establishment licensees shall provide a surety bond as set forth in this section. The bond must be at the licensee's own expense and remain in force throughout the term of the license. The bond must cover licensee's obligation, for itself and its agents, employees, subcontractors, and the agents and employees of any subcontractors, to, indemnify, defend, and hold harmless the City, and any of its elected or appointed officers, agents, or employees, from any and all claims, demands, actions, damages, decrees, judgments, attorney fees, costs, and expenses which the City, or such elected or appointed officers or employees, may suffer, or which may be recovered from, or obtainable against the City, or such elected or appointed officers or employees, as a result of, by reason of, or arising out of the use of the license, or the exercise by the licensee of any or all of the rights, privileges, permission, and authority conferred herein, or as a result of any alleged act or omission on the part of the licensee in performing or failing to perform any of its obligations. Such surety bond shall be in the amount of \$500,000.

J. Prior to the issuance or renewal of a license, medical marijuana establishment licensees shall file, and must maintain, a bond from a surety company qualified and authorized to do surety business in the State of Nevada in the penal sum of \$50,000. Such bond must be conditioned to be paid to the City for all license fees and penalties owing against such license.

6.95.110.

F. Except as otherwise provided in LVMC Title 19, it shall be unlawful for any person licensed under this Ordinance or any other person to advertise any medical marijuana, edible marijuana product, medical marijuana infused product

or medical marijuana establishment, as defined in this Ordinance, anywhere in the City where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: delete

1. Any sign mounted on a vehicle;
2. Any hand-held, human signage or other portable sign;
3. Any handbill, leaflet or flier directly handed to any person, deposited, fastened, thrown, scattered, cast, or placed in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. delete
4. Any video, radio or broadcast medium available to the general public.

The prohibition set forth in this Subsection shall not apply to:

1. Any sign as defined by LVMC Title 19 located on the same lot as the medical marijuana establishment which exists solely for the purpose of identifying the location of the medical marijuana establishment and which otherwise complies with the state regulating authority, the conditions of approval of the license, conditions of the approved Special Use Permit and other applicable city laws and regulations; or
 3. Any advertisement contained within online media, a newspaper, magazine, or other periodical of general circulation; or
 4. Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana establishment.
- G. The presence of minors on the premises of a medical marijuana establishment is prohibited unless the minor is a qualified patient on the premises of a dispensary and is accompanied by his or her parent or legal guardian. No licensee shall cause, permit or allow, either by act or by failure to act, the violation of this subsection.
- H. A medical marijuana dispensary is prohibited from transporting medical marijuana, edible marijuana products, and/or marijuana-infused products off of the licensed medical marijuana dispensary premises. Medical marijuana, edible marijuana products, and/or marijuana-infused products may only be transported by a licensed cultivation facility or licensed medical marijuana production facility. Transportation must meet all requirements of the state regulating authority. Product must be placed in unmarked, non-transparent transportation containers.
Is the City going to address the delivery service for those who can't leave their homes?
- I. Each licensee is responsible to obtain a bi-annual building inspection from the Building Official prior to renewal of any license. You would need a building permit each time to call them out?

6.95.120

- F. In addition to complying with all requirements set by the State regulating authority, any licensed cultivation facility shall:
1. Secure the cultivation facility with full video surveillance capable of clearly identifying any activities occurring within twenty (20) feet of the exterior of the building and any parking, fenced, or loading areas. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.
 2. . Must provide on-site security between the hours of 10:00 p.m. and 6:00 a.m. are they when the business is open as well?
- G. In addition to complying with all requirements set by the State regulating authority, any licensed medical marijuana production facility shall ensure all production, transport, delivery, shipping, labeling and packaging areas have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet.
- H. In addition to complying with all requirements set by the State regulating authority, any licensed medical marijuana dispensary shall contain the following areas, meeting the detailed conditions, separated and segregated:
1. Waiting area containing only one entrance for the public, which is visible immediately from one fixed staffed security station. The entire waiting area must also be monitored by surveillance cameras.
 2. Consultation room where medical marijuana products are viewed for purchase, which must be:

- a. Separated and segregated from any waiting area;
 - b. Any windows or viewing areas must be obscured from the public right of way or waiting area;
 - c. Any customer allowed to enter any room where medical marijuana, edible marijuana products, or marijuana infused products are viewed for purchase is required to be accompanied by an employee of the establishment;
 - d. Only sample products may be viewed for purchase in such a room; samples may be shown to customers outside of nontransparent packaging.
 - e. Customers may not remove any medical marijuana, edible marijuana products, or marijuana infused products from the consultation room.
3. All medical marijuana, edible marijuana products, or marijuana infused products, during non-business hours, must be stored in a separated and secured area.
- a. The area must meet the Building Officials standards for odor control; Is there a standard now? Non cultivation
 - b. The area must be under surveillance by the camera system at all times.
 - c. One area may store both product and legal tender, however separate storage devices must be maintained and both must be under video surveillance.
4. All medical marijuana, edible marijuana products, or marijuana infused products must be placed in an opaque bag or cover that does not allow the product to be visible from outside of the bag or cover and closed by the attendant of the dispensary prior to transfer to a customer.

6.95.120 Cultivation Facility.

- A. A cultivation facility must meet all odor control regulations established by the building department. Within 24-hours of any complaints concerning odors, a cultivation facility shall respond to the complaints and file with the Director and the Building Official all action taken to address odor complaints. The Building Official, upon determination of the existence of detectable odor from any cultivation facility, may require additional measures by the facility to control such odor and a timeframe for the implementation of such measures at any cultivation facility. Failure to complete required improvements within the timeframe

specified by the Building Official is grounds for suspension of the license by the Director.

- B. Any medical marijuana that is transported to a medical marijuana dispensary must be packaged for retail sale in tamper evident containers of not more than two and one-half ounces and placed in unmarked, non-transparent transportation containers. Cultivations facilities must sale to dispensaries in the sizes and quantities they need pre packaged with all the required packaged information on them correct?
- C. Any medical marijuana that is transported to a medical marijuana production facility must meet all State regulating authority standards.
- D. Applicants must designate on their permit application the size of the area proposed to be under cultivation on the premises. The cultivation area will be limited to the square footage granted on the license. Other floor space of the facility may be used for walkways, ventilation, storage or any other purposes required by the state regulatory authority or the licensee for operations of the business. Allocated square footage of cultivation area may be requested to be increased upon petition to the Director prior to the renewal of the license.
- E. The Council may reduce the square footage of any applicant or licensee if the Council determines the size of the proposed facility is not in the interest of the surrounding community;
- F. Prior to accepting any plant materials into the cultivation facility for the first time, the cultivation facility shall notify the Department to conduct a pre-operational inspection and shall pay all related inspection fees. What fee?

6.95.150 Medical Marijuana Dispensary - Requirements and Limitation.

Each licensed medical marijuana dispensary shall comply with the following requirements:

- A. Prices for all products shall be prominently posted in the waiting area in a location and manner readily visible to prospective and actual clients. Prices shall not be posted on the exterior of the licensed premises.
- B. All edible marijuana products and marijuana infused products offered for sale at licensed dispensaries shall meet the requirements, restrictions and labeling of edible marijuana products and marijuana infused products in accordance with LVMC 6.95.140 (B). (see Medical Marijuana Production Facility)
- C. Any dispensary that sells edible marijuana products or marijuana infused products must display a placard that states the following:

1. Edible Marijuana and Marijuana Infused Products: There may be health risks associated with consumption of edible marijuana products or marijuana infused products.
2. Edible products and marijuana infused products contain marijuana or active compounds of marijuana.
3. Should not be used by women who are pregnant or breast feeding.
4. When eaten or swallowed, the intoxicating effects of this product can be delayed two or more hours.
5. Follow all recommended dosage and serving guidelines and recommendations.
6. "KEEP OUT OF REACH OF CHILDREN"

The placard shall be no smaller than 8 inches tall by 12 inches wide, with font size letters no smaller than 48. The placard shall be clearly visible and readable by customers and shall be written in English.

D. A medical marijuana dispensary is not allowed to sell gifts, novelties or participate ancillary business sales activity within a medical marijuana dispensary with the exception of the following:

1. Paraphernalia, the sale of which is limited to the consultation room and only to a display area of 10 square feet of gross retail space in the room.
2. Ancillary services which are services approved in the educational plan by the State regulating authority, and which also must be approved for an ancillary license by the City.

E. A dispensary may locate one automatic teller machine for access to patients only for the dispensing of money if the person operating the machine has been approved by the Director under LVMC 6.06.125 and the business is licensed to operate such by the City. Money and legal tender may not be stored onsite except as detailed in the approved security plan.

F. The following activities to promote the use of marijuana are prohibited:

1. The giving of free samples or free product to any person, employee or customer; Compassionate care for seniors, veterans, poor?
2. No employee shall be paid for services in the form of marijuana product;
3. Reward programs, customer loyalty programs, promotional activities;
4. No novelty merchandise may be produced or allowed to have any approved logo or business name to be used on such merchandise.

5. The display of any product in any manner visible to the general public from the right of way or outside of the facility.
- H. The following activities are prohibited for all licensed medical marijuana dispensaries:

1. **Off-site transportation** or sale of medical marijuana, edible marijuana products or marijuana infused products. All sales and distribution of medical marijuana, edible marijuana products or marijuana infused products by a licensed medical marijuana dispensary shall occur only upon the licensed premise, and the licensee shall be strictly prohibited from transporting or selling medical marijuana to any person at any other location. **Will the city address delivery service?**
2. A drive-thru or walk-up window for transactions or product transfer.
3. A dispensary shall not dispense or distribute, sell, transfer or in any other way provide marijuana, edible marijuana products or marijuana infused products other than by direct, face-to face, in-person transaction with the holder of a registry identification card or **designated primary caregiver** at the licensed facility. Marijuana shall not be provided by any other means of delivery including, without limitation: **so a care giver can come in an purchase for card holders?**
 - a. Internet sales.
 - b. **Transport**, mail or private delivery of product.

6.95. 220 Fees.

A. Annual License Fee:

1. Each annual fee is due in advance on July 1st of each year. Applicants who receive license approval on a date other than such due date shall have their license fees prorated on a monthly basis. License fees paid pursuant to the code are not refundable.
2. Any annual fee which is not received by the Department on or before the due date shall be assessed a late-payment penalty amount equal to ten percent of the amount of such annual fee.
3. **If** the annual fee and penalty is not received by the Department within fifteen days after the due date, an additional penalty in an amount equal to twenty-five percent of such annual fee shall be assessed.
4. **If** the annual fee and all penalties are not received by the Department within sixty days after the due date, the license shall be automatically revoked.
5. **Each licensee shall pay to the Department in advance, the annual fees**

set forth in the following schedule:

License Category	Annual License Fee (Dollars)
Medical Marijuana Cultivation Facility	\$20,000 for 1st 5,000 square feet of approved cultivation area and \$10,000 for each additional 5,000 square feet, or portion thereof, of approved cultivation area
Medical Marijuana Edible Products Facility	\$25,000
Medical Marijuana Dispensary	\$75,000
Medical Marijuana Laboratory fees per LVMC 6.04	\$10,000

B. **Semi-Annual Gross Revenue Fee** for Medical Marijuana Dispensary:

1. Gross revenue fees shall be administered in accordance with LVMC 6.02.160 through 6.02.220, LVMC 6.02.240 through LVMC 6.02.260.
2. If the Semi-annual fee and all penalties are not received by the Department within sixty days after the due date, the license shall be automatically revoked.
3. A semiannual license fee based on the gross sales of the medical marijuana dispensary facility according to the following schedule:
 - a. All medical marijuana products received directly from the medical marijuana cultivation facility for sale shall be calculated on 4% of gross sales. Cultivation company pays this fee?
 - b. All medical marijuana products received directly from the medical marijuana production facility for sale shall be calculated at 6% of gross sales. Production company pays this fee?
 - c. Sales other than medical marijuana shall be calculated pursuant to LVMC 6.04.005. what fee does the dispensary pay?



May 29, 2014

Karen Duddleston
Business License Manager
Department of Planning
333 N Rancho Drive
Las Vegas, NV 89016

RE: Bill No. 2014-33

Dear Ms. Duddleston:

This letter contains comments and questions on Bill No. 2014-33 pertaining to medical marijuana establishments licensing and regulations proposed by the City of Las Vegas. In hope that the City tries to be fair across the board in their licensing of businesses in the City, review of this bill reveals inconsistency with methods applied to other business license types. As the City and the industry move forward, I believe it's important to recognize the need to stay consistent with the regulations adopted by the State of Nevada and Clark County Business Licensing. I will break down my comments and questions by each section.

I would like clarification and an explanation on bond requirements for the following sections:

6.95.060 (M) and 6.95.090 (I)

Each section provides a requirement of a **\$500,000** surety bond to indemnify the City from claims arising from the issuance of a license and/or actions of the licensee in the conduct of his business.

Questions – how is this amount determined? What is the City's concern to justify such an exorbitant amount of the bond? Are these bond requirements independent of each other?

In a letter obtained from Aniello Insurance in Las Vegas **NO** bonding company will write a bond in that amount (see attached letter). How is a licensee able to comply with this requirement?

6.95.090 (J) states:

*Prior to the issuance or renewal of a license, medical marijuana establishment licensees shall file, and must maintain, a bond from a surety company qualified and authorized to do surety business in the State of Nevada in the penal sum of **\$50,000**. Such bond must be conditioned to be paid to the City for all license fees and penalties owing against such license.*

Question – is this bond requirement in addition to the bonds required in sections 6.95.060 (M) and 6.95.090 (I)? Other classifications requiring bonds are listed below and are more reasonably applied depending on the purpose of the bond (see chart below). Additionally, **LVMC 6.02.060 (C) (2)** states all licenses under this Chapter “...May also be conditioned upon the licensee posting a bond in an amount determined by the Director to be reasonably appropriate to guarantee the performance or fulfillment of all conditions, or compliance with all restrictions, imposed upon the license, licensee, applicant or its principal(s).” Wouldn’t it be more appropriate to determine the bond amount based upon the work history of the applicant/licensee in a “reasonable” amount at the initial outset of licensing and during the bi-annual review?

License type	Code reference	Bond amount	Purpose
Coupon book sales	LVMC 6.30	\$5,000	Any person who suffers damage from misrepresentation...
Peddlers/Solicitors	LVMC 6.62.100	\$5,000	Any person suffering injury by reason of any violation of the provisions of this Code by the principal, his agents or employees...
Secondhand dealer	LVMC 6.74.090	Amount determined by the Director	Any person suffering injury by reason of any violation of the provisions of this Code by the principal, the principal's agents or employees,
Auctions	LVMC 6.14.050	\$10,000	Any person who purchases from the licensee and suffers injury by reason of any violation of the provisions of this Code by the licensee, his agents or employees
Drug stores	N/A	N/A	N/A
Pharmacies	N/A	N/A	N/A

6.95.150 (D) states:

A medical marijuana dispensary is not allowed to sell gifts, novelties or participate ancillary business sales activity within a medical marijuana dispensary with the exception of the following:

1. *Paraphernalia, the sale of which is limited to the consultation room and only to a display area of 10 square feet of gross retail space in the room*

*“Paraphernalia” is defined as, the meaning ascribed to it in **NRS 453A.125**. (means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana).*

This appears to conflict with **LVMC 10.92.010** which makes it a misdemeanor to sell, possess with the intent to deliver or sell, or manufacture with the intent to deliver or sell any drug paraphernalia.

Question – is a licensee at risk of being arrested or issued a citation for a misdemeanor if these codes conflict with each other?

6.95.160 Bi-Annual review of license.

(C) (2) [in conjunction with an application for renewal, the licensee will submit]
A nonrefundable application fee of \$1,000.00.

Question – how is that amount determined? Can the City justify a review of a license application, not much different from other types of privilege licenses at 10 times the expense to the licensee?

Type of License	Application fee amount
General	\$50.00
Privilege	\$100.00

6.95.220 Fees

The City is proposing an annual fee schedule significantly higher than the State of Nevada. Clark County has not determined its fee schedule to this point but hopes to have a draft prepared shortly. For a dispensary the fees required include not only an exorbitant “flat” fee but also multiple fees based on gross sales. This deviates from the normal fee scheme for other licenses. For example, liquor fees are flat or fixed based on the type of license possessed. For tavern licenses, no fees are assessed on the gross liquor sales, only the non-liquor products sold. For like businesses, a drug store pays a fee based on gross sales under LVMC 6.04.005, less than 1%, significantly lower than the proposed 4% or 6% depending on product purchases by the MME licensee. Pharmacies pay a flat fee of \$200 annually per professional.

Questions – can the City justify the high flat fees and the significantly higher percentage rate for products sold?

The proposed fees for the MME’s will ultimately drive the cost to the medical marijuana client. If due to these high fees, the licensee is forced to raise their prices, the potential exists for the medical marijuana



May 29th, 2014

Samantha, Inc. dba Med-Releaf
2040 Edgewood Avenue
Las Vegas, Nevada 89102

RE: Bond for Medical Marijuana Licensing for the City of Las Vegas

Mr. Drobkin,

Please be advised that we have gone to several Bonding Companies and all have refused to issue a 500,000 dollar bond for this license. The carriers that we have approached are as follows:

Western National Bonding Company - Declined due to amount of Bond
C N A – Western Surety – Declined due to amount of Bond
Merchants Bonding - Declined due to amount of Bond
Surety Place – (Hard to Place Bonds) - Declined due to amount of Bond
CBIC/RLI Bonding - Declined due to amount of Bond
NFP Property & Casualty Services - (Hard to Place Bonds) - Declined due to amount of Bond

All Bonding Companies have stated that they need to see what type of bond form the City of Las Vegas is going to want on this bond. Also checking with other states the maximum bond amount they could find for this type of business was 50,000.

Please let me know if you need any other information.

Sincerely,



Ernie Cramer, Producer
Aniello Insurance Agency

Medical Marijuana Licensing Analysis (Enforcement costs)

Person Name	Organization	Job	Work Group	Gross Wages	Base Salary
Ackley, Elizabeth G. (Liz)	PD - Business License	License Officer	CEA	86,003.51	77,953.87
Cone, Robert A.	PD - Business License	License Officer	CEA	55,470.56	55,002.33
Jimenez-Kraft, M. Grace	PD - Business License	License Officer	CEA	86,631.88	77,836.38
Oliverius, Kelly G.	PD - Business License	License Officer	CEA	84,369.34	77,836.42
Pisani, Fabiana P. (Paola)	PD - Business License	License Officer	CEA	83,846.04	77,836.30
Webb, Latania D.	PD - Business License	License Officer	CEA	83,883.42	77,836.40
				480,204.75	444,301.70
	CY2013	Average hourly wage per unit	57.32	38.48	35.60
	CY2013	Average Annual salary- Unit	119,220.96		74,050.28

ANALYSIS:

PROJECTED MONTHLY INVESTIGATION/INSPECTION COSTS

Basis: Investigation/inspection (1 visit/week; 1 hour)	Avg w/benefits	Avg Hourly
Per facility	229.28	142.40
12 licensed facilities	2,751.36	1,708.80
Annual cost per facility	2,751.36	1,708.80
Annual cost 12 licensed facilities	33,016.32	20,505.60
Basis: Investigation/inspection (bi-weekly; 1 hour)	Avg w/benefits	Avg Hourly
Per facility	114.64	71.20
12 licensed facilities	1,375.68	854.40
Annual cost per facility	1,375.68	854.40
Annual cost 12 licensed facilities	16,508.16	10,252.80
Basis: Investigation/inspection (1 per month; 1 hour)	Avg w/benefits	Avg Hourly
Per facility	57.32	35.60
12 licensed facilities	687.84	427.20
Annual cost per facility	687.84	427.20
Annual cost 12 licensed facilities	8,254.08	5,126.40

NOTE:

- (1) Salary source: <http://www.lasvegasnevada.gov/Government/25713.htm>
(2) Salary is based on CY2013 records