

FREQUENTLY ASKED QUESTIONS

February 6, 2019

- Q. We have identified additional sensitive uses that are not identified on the City's mapping. Is there a specific format that the City would like this information conveyed in order to make sure they are added to the City's list?**

Some of the addresses appear to be wrong under the umbrella of Sensitive Uses for zoning.

- A. Only sensitive uses that that could potentially affect an existing application will be considered for review. If you have convincing and authenticated documentary evidence that a particular sensitive use should or should not be on the list because it affects an existing application, email that documentary evidence in PDF format to measurez@cityofvista.com. If an existing applicant has already challenged a particular sensitive use in its application, there is no need to repeat that information in an email—it is already under consideration. Information submitted near the City's deadline to act on applications may not be reviewed or considered prior to the issuance of appropriate notices, in which case the City will rely on its current List of Known Sensitive Uses in evaluating applications. Please also see the Q&A of February 1, 2019, for further information.

February 5, 2019

- Q. I have an important question based on some actions that have recently occurred: If it is shown that an applicant or their representative has made threats to, or otherwise harassed, another applicant in an attempt to force them to withdraw their application, will this be grounds for disqualification? Where should such conduct be reported?**

- A. Actions such as you describe should be reported to the San Diego County Sheriff's Department. Measure Z limits the City's review of applications to a ministerial, non-discretionary review, so such conduct would not be disqualifying in the City's process. Should this conduct result in an arrest and conviction, it is possible that the State Bureau of Cannabis Control would take it into account in issuing or revoking the necessary state license.

- Q. At the city council meeting that I attended we were all told that prior illegal dispensaries would not be considered for licensing. With that said, The Laughing Leaf has not only filed a suit against the city but, they were an illegal dispensary that was shut down. They are now applying for licensing and not only that but the address they used is the same address (1020 E. Vista Way) that they used when they were running an illegal dispensary. This then rewards those that operated illegally. Will the city be allowing that?**

A. The comment you recall would have related to Measure BB which did not pass at the election. Measure Z does not permit the City to take those prior illegal actions into account when issuing licenses.

Q. Are the applications submitted public information (namely where the proposed location will be)? If so, is it included on the website?

A. Portions of the applications are public information, and the proposed locations have already been posted. Other portions of the applications are not public information under the Public Records Act due to personal and financial privacy considerations.

February 1, 2019 PM

Q. Will cannabis delivery services be permitted with an approved dispensary permit?

A. The City has not yet considered this issue since it is not a factor involved in processing applications under the terms of Measure Z.

February 1, 2019

Q: My location has been listed as a “Youth Center” sensitive use on the City’s website, but I believe that it should not be listed that way because it is not primarily used for those purposes. How can I remove our location from the sensitive use list?

My location has not been listed as a “Youth Center” sensitive use on the City’s website, but I believe that it should be listed that way because it is primarily used for that purpose. How can I have our location included in the sensitive use list?

A: The list of sensitive uses on the website was comprised of those known to the City at the time the list was posted. It was just revised to remove a sensitive use that the City learned was no longer in business. The list can similarly be revised to identify a sensitive use that is not currently known to the City. These modification are expressly permitted by the regulation regarding the identification of sensitive uses.

In order to add a location as a sensitive use the City would have to be assured that the location “. . . is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.” The City interprets this to mean that over 50% of the activities at the location, or more than 50% of its members, are age 18 and under.

The City will accept a letter from an authorized agent of the location (owner, board of directors, president, chair, etc.) asking that the location be added to or removed from the sensitive use list, provided that the letter is accompanied by a notarized, written

declaration setting forth the facts that establish that the location is or is not a Youth Center as defined. If the City determines that the facts recited are sufficient, the location will be added to or removed from the sensitive use list.

As previously stated in the Frequently Asked Questions, “A final determination whether an Authorized Area will be open to a medical cannabis will be made on the date that the City makes a determination on an application pursuant to VMC § 5.94.070.B. As of that date, the City will perform its final assessment of the buffer rules which will include consideration of the proximity of any prior-approved medical cannabis businesses, any newly identified sensitive uses, and any information that may be provided through a professional survey.”

January 23, 2019

Q: At the application submission process one company submitted 7 LLCs almost identical on the board. I thought this would deny an application.

A: The City did not attempt to screen or evaluate applications yesterday except to determine that submitters were in possession of an application and had the requisite cashier's checks. We are beginning the evaluation process to determine whether or not applications comply with our rules. As we get more information during the evaluation process we will assess whether all, some, or none of these particular applications were properly submitted.

January 18, 2019

Q: Is an unincorporated association restricted to satisfying VMC § 5.94.050.B.11 by submitting only “articles of association,” or can it satisfy the section by submitting a “governing document” which bears a different name?

A: The term “articles of association” is not defined in the California Corporations Code or in Chapter 5.94. However, it is a common form of “governing document” under which an unincorporated association may operate. As used in VMC § 5.94.050.B.11, the term “articles of association” is a generic reference to the “governing document” under which an unincorporated association operates. Section 18008 of the California Corporations Code defines the term “governing document” as follows: “Governing document” means a constitution, articles of association, bylaws or other writing that governs the purpose or operation of an unincorporated association or the obligations of its members.” Among the “other writings” referred in this definition, would be “articles of organization,” at least on occasion. Any of these documents can be submitted to potentially satisfy the documentation requirement of VMC § 5.94.050.B.11.

Q: Is a limited liability company an “unincorporated association” for purposes VMC § 5.94.050.B.11 which is eligible to submit an application and be issued a Notice of Completed Registration upon submitting a complete and accurate application satisfying Chapter 5.94?

A: A limited liability company can *potentially* qualify as an unincorporated association for purposes of VMC § 5.94.050.B.11. Entities covered by VMC § 5.940.050.B.11: (1) must be comprised of “members”; and (2) must have the legal capacity to operate in accordance with the “General Operating Standards and Restrictions” set forth in VMC § 5.94.080, which, in large part, consist of rules directed to the service and protection of its “members.” See, VMC § 5.94.080 for rules directed to “members,” including those found in subparagraphs B.1.d., D, F., H, I, M, and S. See also, VMC § 5.94.080.A (for general operating rules) and VMC § 5.94.030 (for definition of “collective” and “cooperative” which also references “members”).

January 16, 2019 (P.M. Additions) (Revised)

Q: Will there be any change in the “Unbiased Process” described in Exhibit A to the Regulation entitled “Submitting Applications for Medical Cannabis Businesses, Date Stamping of Applications, and Creating a Priority List” (“Regulation”), which was posted on January 14, 2019?

A: No. The Regulation assures applicants that the Unbiased Process initially described in Exhibit A on January 14, 2019 will be used unless the City first amends Exhibit A to describe a different Unbiased Process. The City hereby confirms that Exhibit A will not be amended. As a result, the Unbiased Process set forth in Exhibit A as originally posted on January 14, 2019, and as it currently reads, will be employed on January 22, 2019.

Q: What must an Applicant do to assure that its application is included among the first applications submitted to the City when the opportunity to submit applications opens at 10 a.m. on January 22, 2019?

A: The City of Vista will physically accept the submission of applications for medical cannabis businesses at the Morris B. Vance Community Room beginning at 10:00 a.m. on January 22, 2019. If multiple representatives are present at 10:00 a.m. seeking to submit applications on behalf of Applicants (“Waiting Representatives”), an established unbiased process will be used to administer the submission of applications by the Waiting Applicants who were simultaneously present at 10:00 a.m. when the time-window for submitting applications opens. The process is established and explained in the City Manager Regulation issued on January 14, 2019, “Submitting Applications for Medical Cannabis Businesses, Date Stamping of Applications, and Creating a Priority List” (“Regulation”), and is authorized by VMC § 5.94.060.B and 5.94.170.B.

To be among the Waiting Applicants who submit applications receiving time-stamps, an Applicant Representative should do the following:

1. Enter the lobby to the Morris B. Vance Community Room on January 22, 2019 between 9:30 a.m. and 10:00 a.m.
2. Upon entry, have a complete Application and two separate cashier checks in the amounts of \$100,000 and \$9,368.

3. Be prepared to provide: (1) the full name of the Waiting Representative; and (2) the complete legal name of the medical cannabis business which is seeking to operate in Vista and to be approved via the license application.
4. No one Applicant may be represented by more than one Waiting Representative. If two or more Waiting Representatives represent a single Applicant, that Applicant will be disqualified. (See, VMC § 5.94.060.D, and Regulation, Rule 4.)
5. At 10:00, the doors to the Morris B. Vance Room will open, and each Waiting Applicant should enter.
6. Once the Waiting Applicants enter, the City will guide the Waiting Applicants through the remainder of the submission process for applications in as described in the Regulation.

The following factors have no weight in establishing or influencing the order in which Waiting Applicants submit applications.

- Demonstrating that a Waiting Applicant was present outside of the Morris B. Vance Community Room or at the Vista City Hall before 9:30 a.m. on January 22, 2019 when the doors to the lobby are opened.
- Demonstrating that a Waiting Applicant entered the lobby to the Morris B. Vance Community Room between 9:30 a.m. and 10:00 a.m. ahead of another Waiting Applicant.
- Demonstrating that a Waiting Applicant entered the Morris B. Vance Community Room ahead of another Waiting Applicant.
- Demonstrating the electronic delivery of an application to the City Clerk or any other City representative.
- Demonstrating the physical delivery of an application to the City Clerk (or other City official) except a physical delivery made by a Waiting Applicant pursuant to the Regulation.

Q: In 2018 and 2019, State regulations particular to “collectives” and “cooperatives” were eliminated or adjusted; does this change the legal entities that may submit applications to operate a medical cannabis business under Chapter 5.94?

A: Measure Z was approved for the ballot on September 26, 2017. The City is implementing Measure Z to effectuate the language of Measure Z and the voters' intent. As a result, an entity may apply to operate a medical cannabis business if: (1) it is a nonprofit of any type, which submits certified Articles of Incorporation as required by VMC § 5.94.050.B.10; or (2) it is an unincorporated association which submits Articles of Association as required by VMC § 5.94.050.B.11. Since Measure Z does **NOT** mandate that specific content be contained in the Articles of Incorporation or Articles of Association, the City will not undertake such a review.

January 16, 2019

Q: May medical cannabis businesses be located throughout the six areas with color designations indicating “Permissible Zoning” as shown on the “Map of Sensitive Uses, Permissible Zoning and Potentially Available Parcels,” dated as of December 21, 2018 (“Map”)?

A: No. Only some areas with Permissible Zoning are open to medical cannabis businesses.

Open locations are limited to legal parcels with Permissible Zoning that satisfy all applicable buffer standards. See “Regulation Regarding the Identification of Sensitive Uses, Separation Requirements, Establishing a List of Known Sensitive Uses, and Providing an Associated Map and List of Potentially Available Parcels.” The areas with Permissible Zoning that satisfy the buffer rules based on an initial review are limited to those legal parcels with Permissible Zoning which are identified on the Map by the graphic symbol used to designate “Authorized Areas.” (See, Map Legend in lower left hand corner. Further, the Map is provided to applicants as a general informational tool.)

A final determination whether an Authorized Area will be open to a medical cannabis will be made on the date that the City makes a determination on an application pursuant to VMC § 5.94.070.B. As of that date, the City will perform its final assessment of the buffer rules which will include consideration of the proximity of any prior-approved medical cannabis businesses, any newly identified sensitive uses, and any information that may be provided through a professional survey.

Q: For purposes of an application, how does an applicant demonstrate that a proposed location for a medical cannabis business is within a permitted zone and conforms to applicable buffer requirements?

A: At minimum, the application should: (1) provide the property address; (2) identify the applicable Assessor’s Parcel Number, and (3) document that the identified property is included on the most recently issued List of Potentially Available Parcels. The proposed List of Potentially Available Parcels, however, is not conclusive. As stated on the List of Potentially Available Parcels, parcels included in the list “may be or may become ineligible for medical cannabis businesses based on separation requirements imposed by State Law and/or VMC § 5.94.090.” In processing an application, the City may initiate additional assessments or surveys to assure that a proposed location satisfies all applicable buffer requirements. See, also, City Manager Rules for Measure Z Implementation. (VMC § 5.94.050.B.15).

Q: What level of detail should be included in the site plan included with an application?

A: The site plan should satisfy VMC § 5.94.050.B.7. The site plan should identify the property, and present fully dimensioned interior and exterior floor plans. The Plans should include electrical, mechanical, plumbing, and disabled access which complies with Title 24 of the State of California Code of Regulations and the Americans with Disabilities Act.

Q: How will the City reconcile the payment of an application fee of \$9,368 (as identified in the Measure Z Application Form) if the City Council subsequently approves a different application fee?

A: The City will issue a partial refund to the applicant if the City Council approves a fee of less than \$9,368. If a higher application fee is approved by the City Council, the applicant will be invoiced for the difference. In the latter event, the applicant must remit payment for the difference within seven days of the invoice date.

Q: Are drug and alcohol treatment centers sensitive uses which must be buffered from a medical cannabis business to satisfy Measure Z?

A: No, as a general matter.

Q: Do separation requirements account for physical barriers, such as railroad tracks, that may be present between a proposed medical cannabis business and a sensitive use?

A: No. For instance, a medical cannabis business cannot locate within 600 feet of a school, even if the business and school are separated by railroad tracks.

Q: VMC § 5.94.050.B.16 and 17 provide that: (1) “Applicant’s business must have been in existence for a minimum of six (6) contiguous months prior to the issuance of a business license under this Article;” and (2) “Applicant must have a current Board of Equalization Seller’s Permit that has been in existence for a minimum of six (6) contiguous months prior to the issuance of a business license under this Article.” Can these requirements be satisfied by a person who is the CEO, operator, or manager of a proposed medical cannabis business, or must the requirements be satisfied by the medical cannabis business which is the subject of the application and will be registered?

A: The six-month rule must be satisfied by the exact legal entity that is the Applicant and which will be registered to operate in Vista as a medical cannabis business. The experience of a person as a CEO, manager, or operator for a different business or a different medical cannabis business does not satisfy the six-month rule.

Q: Does Measure Z permit any form of cannabis cultivation within a building or on a property which is approved for a medical cannabis business?

A: No.

January 14, 2019

Q: Can all types of legal entities be approved to operate a medical cannabis business under VMC Chapter 5.94?

A: No. To be eligible to operate a medical cannabis business, an applicant must demonstrate that it can operate as a “collective or cooperative,” which requires that it supply the documentation listed in VMC §§ 5.94.050.B.11 or 11:

- “10. If the medical cannabis business/collective is a non-profit corporation, a certified copy of the Collective’s Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information.
11. If the medical cannabis business or collective is an unincorporated association, a copy of the Articles of Association must be provided.”

The documentation supplied must be an exact match to medical cannabis business that will operate in Vista if the application is approved. For additional information, please see, “Regulation Confirming that Applicants for a Medical Cannabis Business Under Measure Z Must be a Collective or a Cooperative.” For information on how an applicant satisfies the six-month rule described in VMC §§ 5.94.050.B.16 and 17, please see, “Regulation to Implement VMC § 5.94.050 which Imposes a Requirement that a Medical Cannabis Business License be Approved only if the Medical Cannabis Business Has been in Existence and Held a Seller’s Permit for Six Months.”

January 10, 2019

Q: May medical cannabis businesses be approved for the O-P zone (Office Professional)?

A: No. Please see, VMC § 5.94.090.B and Regulation Identifying Zones in Which Medical Cannabis Businesses May Potentially Locate.

Q: Are applicants for a medical cannabis business in Vista limited to persons or entities that have previously owned or operated such a business?

A: Not necessarily. A complete application requires that the proposed medical cannabis dispensary on the date of the application: (1) be in existence; (2) hold a BOE Seller’s permit; and (3) be a: (i) nonprofit corporation with certified Articles of Incorporation that are included with the application; or (ii) an unincorporated association with Articles of Association that are included with the application. See, VMC §§ VMC 5.94.050 A.10 and 11. The application must also demonstrate that the identified nonprofit corporation or unincorporated association has, for a period of six “contiguous months,” been in existence and held a BOE Seller’s permit. See, VMC §§ VMC 5.94.050 A.16 and 17. If the applicant will fall short of either of these six-month rules, an applicant may request that the City “toll” the City’s review of the application by submitting a timely tolling request no later than the 15th day following the submission of the application. See, VMC § 5.94.070.A, and Section 3 of *Regulation to Implement VMC § 5.94.050 Which Imposes a Requirement That a*

Medical Cannabis Business License be Approved Only if the Medical Cannabis Business Has Been in Existence and Held a Seller's Permit for Six Months. Once the application is tolled for a sufficient time to achieve satisfaction of the six-month rules, the City will issue a Notice of Completed Registration if all other conditions for issuance of the Notice have been satisfied.

January 8, 2019

Q: Is an applicant with this documentation previously operating outside of the City of Vista eligible under these regulations?

A: Yes, Measure Z does not limit its operation to businesses existing within the City of Vista, provided that all other application criteria are met.

Q: How many pre-existing collectives or cooperatives are recognized by the City of Vista?

A: The City does not have any list of recognized collectives or cooperatives.

Q: I have a question about the \$100,000 deposit.

A: Separate cashier checks must be provided to the City with one being in the amount of \$9,368 to cover the filing and processing fee, and a second in the amount of \$100,000 to serve as the deposit required by Measure Z. Further regulations concerning use and disposition of deposits will be issued at a future date.

Q: Can you please provide more information on the submission process?

A: Instructions for the time, place and manner of submitting applications will be available on January 14th.

January 3, 2019

Q: Will additional City Manager regulations be issued during January and beyond? If so, when and on what topics?

A: Additional regulations will be issued from time to time to address further questions and topics which are of general interest. Additional information and documents will be posted to this site in accordance with the implementation calendar. Not all questions will be posted on this site, and regulations will not be adopted to respond to every inquiry received by the City.

Q: (a) What type of entities are eligible to be approved to operate a medical cannabis business under Chapter 5.94? (b) How will the City administer the requirements found in VMC § 5.94.050.B.16 and 17 that an: (i) "Applicant's

business must have been in existence for a minimum of six (6) contiguous months prior to the issuance of a business license under this Article” and (ii) “Applicant must have a current Board of Equalization Seller’s Permit that has been in existence for a minimum of six (6) contiguous months prior to the issuance of a business license under this Article”?

A: During the week of January 7, 2019, the City Manager will issue a regulation or regulations which will answer each of the above-stated questions.

Q: Can Measure Z licensed dispensaries sell Adult Use cannabis?

A: No, Measure Z was expressly limited to the sale of Medical Cannabis.