

Hi Barry,

I am writing this letter today to ask for the opportunity to have a suggested amendment added to the next town council agenda for discussion. I sincerely believe that a great deal of effort and fairness was given to moving Windham in an “opt-in” vote. However, I more strongly believe that the town, it’s residents and visitors, as well as its businesses did not intend for the result to be what it is. I believe that some small, yet major, oversights exist.

I am not writing upset or with intimidation, and I certainly do not place blame on ANY of our town employees, elected or hired. The progression of this ordinance came during a transitional time for your position and the council almost simultaneously. To boot the final stages and vote came during the beginning of what has proven to be an extremely long and economically difficult time.

Before the passing of the ordinance, Maine’s Alternative Caring was the first caregiver storefront in the state. As the loophole rapidly gained traction with other caregivers and the state, emergency legislation was passed to address it. The Town of Windham, which had issued 9 “change of use” permits for caregiver storefronts, began what slowly proved to be a very rushed and chaotic process. This process was one that you stepped into the middle of and for that reason, I highly respect and appreciate you for managing the smoothness of this ordinance, as well as the state of the Town at the time.

I am, and have been, genuinely supportive of the town ordinance. That rested on the fact that with this ordinance Caregivers, particularly those with storefronts, would be able to finally operate as a conforming use business within Windham.

My only complaint is section 160-10. Transfer of Ownership or Change of location;

§ 160-10. Transfer of Ownership or Change of Location

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership shall require a new license. Licenses are limited to the premises for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new license for that location.

While at its perceived reading it leads the reader, regardless of their interest, to believe that “an approved licensee under this ordinance, who seeks to operate in a new location shall acquire a new license for that location.”, that in fact has been determined by the town attorney to not hold true. The town issued more storefront licenses than the ordinance allowed.

Here is where my many objections lay.

As I have been given a formal denial from Code Enforcement for my change of use to move Maine’s Alternative Caring three doors down, from suite 2 to suite 5 (which the suite number for our company’s caregiver storefront application was never listed), it seems the decision came from the town attorney’s “interpretation” of the ordinance.

While I observe that our town attorney drafted the language for the town ordinance, as the former vice chairman of Windham’s Marijuana Task Force, I sincerely believe that this “interpretation” was not the intention of that task force, the council, or the citizens of this town. I can, with 100% assurance, say that it was not what the 7 or 9 licensees understood the ordinance to mean.

There are several aspects where the four sentences of 160-10 drastically effect these businesses, including my own, in their abilities to operate on any kind of reasonable level given their size.

Per the interpretation of section 160-10 by our town attorney, caregiver storefronts cannot do the following:

1. Change their business.

A. Sell any portion of their business including offering employee stock options or transitioning into an employee owned company.

B. Take loans out against the professionally certified value of their company. This is often referred to as a business's credit from which they can use as collateral to borrow from lenders for a number of reasons. This includes rapid growth, expansion, or hard economic times.

C. Lose an owner! Should one member of my business suddenly pass, the current interpretation is that my business would not be allowed to transfer that individual's ownership to an heir. In fact, that business would no longer be able to hold its town license because a new operating agreement would require a new license, which by interpretation is not available yet.

2. Change location

A. Before the ordinance I wanted to change my location to suite 5, where I eventually opened up Bio Market. I could not do so because Maine's Alternative Caring was considered a "non-conforming use" business. Now that we are conforming, as well as paying significant fees, we still cannot move?

B. Does the ordinance provide for expansion of permitted location? This is not addressed in the ordinance at all. I have outgrown my location and the expense for holding three locations for my business operations is not economically working.

Barry, the effects of this section are so significant. My company alone, as Certified by Reggie Butts, is worth over \$6 million. If the other 7 caregiver storefronts are worth close to that, and it's not transferable until some lose their license (as simple as one partner passing away), I suddenly fear for my family's financial security as well as the personal security of myself and partners.

In the less extreme, business may become sabotaged by others for the simple purpose of attempting to put another out of business....so that they can sell!!!! In a climate of tens of millions a year in sales in this town I personally feel fear over this section of the ordinance.

While the town seemed more concerned with regulating and controlling the number of adult use retail stores, it seems in this instance that those two awarded licenses have substantially more freedom in regard to this matter.

Because there are 7 caregiver storefronts but only 4 allowed under ordinance, 3 must lose their license before the other 4 can function normally.

Because there are 2 adult use storefronts and 2 allowed under ordinance, those 2 adult use licensees can operate their business normally.

I would suggest that this ordinance only serves as a format by which medical marijuana storefront licensees have to survive in a purge type business and/or personal environment in order to make it to the final four where you can actually get what you have earned.

I would also suggest that big marijuana businesses, such as Wellness Connection, now have the opportunity to purchase one or both of the adult use licenses. That move, coupled with a caregiver storefronts inability to operate in an equal manner, will pave the way for the loss of small, local cannabis business in exchange for giant out of state corporations.

With Linda, Chris, Town Council and yourself all needing to ask our town attorney on this (Who as I have mentioned before also represents Wellness Connection), it seems clear to me that section 160-10 as interpreted by the town attorney, was not the intended spirit of the town ordinance both as a whole and from the standpoint of anyone involved other than the town attorney.

I do believe, as I and others have stated many times only to be called conspiracy theorist by Councilor Nagel, that a clear conflict of interest exists in our town attorney's ability to have involvement in our town's marijuana ordinance.

I am still willing to be called a conspiracy theorist over this subject today. It's either that my concern has been proven true, or there was complete oversight and inadequate representation by drafting and encouraging the town council to pass such unbalanced and discriminatory language into the ordinance.

While my intention is not to deeply address that conflict at this time, I believe there is a resolution in a simple deletion of 160-10 for the town marijuana ordinance. There is no other language within the ordinance that section 160-10 effects, and in fact, the complete additional language of the ordinance supports the type of fair business environment that I believe is quite protected under law.

I am quite hopeful that you will add this proposal to the next town council agenda. I would also like the opportunity to respectfully address the council regarding how 160-10 affects me, my family, my partners and their families, as well as my 18 employees and their families. I could not fathom an instance where the council and town wouldn't be willing to quickly address this oversight.

One thing that has been proven during this pandemic is that death can happen unexpectedly. For me, if I passed away tomorrow, my family would be homeless and unable to afford my funeral, as I suspect

would be the same for many others. A death of a partner for any of these caregiver storefronts would cost their families everything.

I sincerely thank you for your time and consideration. I look forward to your timely response.

Sincerely,

Charles Hawkins