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**GRAND JUNCTION CITY COUNCIL
MONDAY, SEPTEMBER 14, 2020**

**PRE-MEETING (DINNER) 5:00 P.M. ADMINISTRATION CONFERENCE ROOM
WORKSHOP, 5:30 P.M.
CITY HALL AUDITORIUM
250 N. 5TH STREET**

To become the most livable community west of the Rockies by 2025

1. Discussion Topics - CITIZEN COMMENT WELCOME

- a. Discussion regarding Cannabis Regulation and Licensing within the City of Grand Junction

2. City Council Communication

An unstructured time for Councilmembers to discuss current matters, share ideas for possible future consideration by Council, and provide information from board & commission participation.

3. Next Workshop Topics

4. Other Business

What is the purpose of a Workshop?

The purpose of the Workshop is to facilitate City Council discussion through analyzing information, studying issues, and clarifying problems. The less formal setting of the Workshop promotes conversation regarding items and topics that may be considered at a future City Council meeting.

How can I provide my input about a topic on tonight's Workshop agenda?

Individuals wishing to provide input about Workshop topics can:

1. Send an email (addresses found here www.gjcity.org/city-government/) or call one or more members of City Council (970-244-1504);
 2. Provide information to the City Manager (citymanager@gjcity.org) for dissemination to the City Council. If your information is submitted prior to 3 p.m. on the date of the Workshop, copies will be provided to Council that evening. Information provided after 3 p.m. will be disseminated the next business day.
 3. Attend a Regular Council Meeting (generally held the 1st and 3rd Wednesdays of each month at 6 p.m. at City Hall) and provide comments during “Citizen Comments.”
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Grand Junction City Council

Workshop Session

Item #1.a.

Meeting Date: September 14, 2020

Presented By: Doug Shoemaker, Chief of Police

Department: Police

Submitted By: Doug Shoemaker, Chief of Police

Information

SUBJECT:

Discussion regarding Cannabis Regulation and Licensing within the City of Grand Junction

EXECUTIVE SUMMARY:

The purpose of this workshop topic is for City Council discussion on marijuana businesses in Grand Junction.

BACKGROUND OR DETAILED INFORMATION:

The City has conducted additional research regarding introduction of an ordinance to amend or repeal Ordinance 4599 to would permit the sale/cultivation of marijuana within Grand Junction. The research, conducted by various departments, including the Police department, confirms there are many decisions points and policy considerations regarding whether to permit cultivation, processing, sale, and recreational consumption of marijuana. Some of the considerations/findings are as follows:

1. Whether to allow for the permitting of cultivation or “grow” operations or if the preference is for retail marijuana (recreational or medical) or “sale” locations within the city limits, or for both. Given the varied issues of each option, better understanding is needed of potential criminal activity, licensing, security, site locations, zoning, and other regulatory considerations. The number of establishments to be permitted should be determined and zoning is key to ensure that residential neighborhoods, schools, etc., are not affected. Finally, issues of drive up service and delivery services should be carefully considered, as well as whether or not attached ‘event centers’ which may offer “smoking rooms” are going to be permitted. Each such use brings additional challenges that may not be suitable for some communities, particularly in light of safety concerns

and other enforcement/compliance issues.

The State of Colorado, through the Marijuana Enforcement Division (MED) has established many of the basic cannabis regulations and those can be found at <https://www.colorado.gov/pacific/enforcement/marijuanaenforcement>. The MED is also a source for educational materials and other resources for both the regulated and regulators. Specific questions for the City Council include:

- a. Should retail sales of medical and recreational marijuana be allowed? If so, where and/or with what conditions?
- b. Should cultivation of marijuana be allowed. If so, where and/or with what conditions?
- c. Should processing of marijuana be allowed? If so, where and/or with what conditions?
- d. Should consumption of marijuana in “hospitality establishments” be allowed? If so, where and/or with what conditions?
- e. Should a working group be formed to assist in proposed draft land use (and/or other) regulations? (Many communities have written regulations (largely focused on land use issues) by forming a working group of diverse interests. If the Council proceeds with an ordinance, City staff recommends the formation of a working group to provide input into the formation of regulations.)

While the MED regulates State licensing, local licensing is necessary and different types of operations (recreational sales/medicinal sales/grow operations) require different licenses and in turn different compliance efforts. A licensing effort will minimally include owners, operators and staff submitting fingerprints and background checks together with an application for a business license and payment of applicable fees. Additionally, when considering medical or recreational sales, separate licenses must exist for each facility, principally for taxation and other requirements to segregate those sales. Research has shown that ordinances that reflect the policy(ies) of the community and the process that is used in fashion those ordinances tends to result in a regulatory climate that is key in determining a successful, manageable program. Compliance with state regulations serve as the starting point, but each community needs to create regulations to suit its needs. Specific questions for the City Council include:

- a. An ordinance will need to establish a licensing process and program.
- b. License fees will need to be determined, and,
- c. The number (if limited) and type of licenses will need to be established.

Different communities which allow for the sale/cultivation of marijuana have different experiences and different approaches to regulation and taxation. Specific questions for the City Council include:

- a. The City should consider level of taxation on retail sales.
- b. The City should consider excise or other taxes on growing/production.

2. The sale/cultivation of marijuana requires oversight, in every case researched, such a responsibility falls within the authority of the local police department. Research has shown that there is a perception that criminal activity will increase if marijuana sales are “legalized” within a community, whether they be recreational or grow operations. Contrary to that perception, however, very few jurisdictions saw a significant increase in crime related to those operations. Major crimes such as robberies were rarely reported, and even burglaries were fairly minimal. The strict adherence to a multitude of crime prevention efforts, such as a significant and robust camera system, are most certainly a deterrent to potential violent criminal issues. Based on conversations with various law enforcement agencies across the state, an ordinance should include a specifically earmarked revenue source for law enforcement and code enforcement personnel to assist with compliance/enforcement. Each law enforcement agency surveyed stressed the significant level of workload that compliance brings. Specific questions for the City Council include:

- a. Should revenue be earmarked for a specific purpose(s) such as law enforcement related compliance issues, substance abuse services/service providers, youth usage prevention, and/or wellness/recreational facilities?

Additional background regarding the potential introduction of cultivation, processing, retail and consumption was provided as part of the July 17, 2020 workshop and has been attached for reference.

FISCAL IMPACT:

This item is for discussion purposes.

SUGGESTED ACTION:

For City Council discussion.

Attachments

1. Successful Cannabis Regulation Guide
2. July 17 Workshop Staff Report

A Local Government's Guide to Successful Cannabis Regulation & Licensing

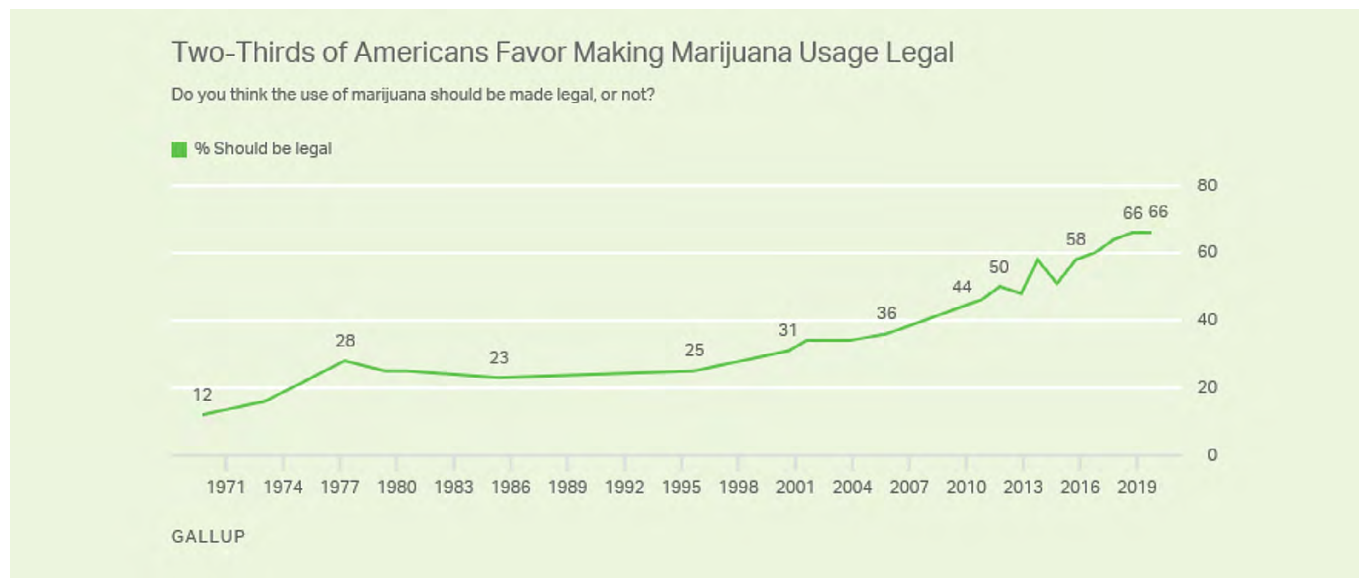
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Cannabis—From “Growing” to Dominant Industry

The cannabis industry in the US is expected to mature to more than \$30 billion in sales within the next five years, according to [New Frontier Data](#). That means the cannabis market is now larger than many prominent industries in the US, including food delivery, home entertainment, and Valentine’s Day. More than 211,000 people now work full-time in cannabis-related jobs, according to a recent report by [Whitney Economics](#)—with 68,000 new positions added in the last year alone. There are at least 17,350 active licenses for marijuana businesses, according to [Cannabiz Media](#). Most recently, Colorado State University-Pueblo announced that they would be offering a [new academic major](#) to students: a Bachelor of Science in Cannabis Biology and Chemistry.

While these facts and figures would have seemed somewhat implausible even 10 years ago, changes in public opinion regarding cannabis is fueling this shift. As a recent [Gallup survey](#) shows, support for legalization has steadily risen more than 54 percentage points over the last fifty years, with the most substantial gains taking place since 2005. Between 2005 and 2018, public support for legalization has nearly doubled with 66% of the population in support in 2019, a figure that’s remained unchanged over the last year.

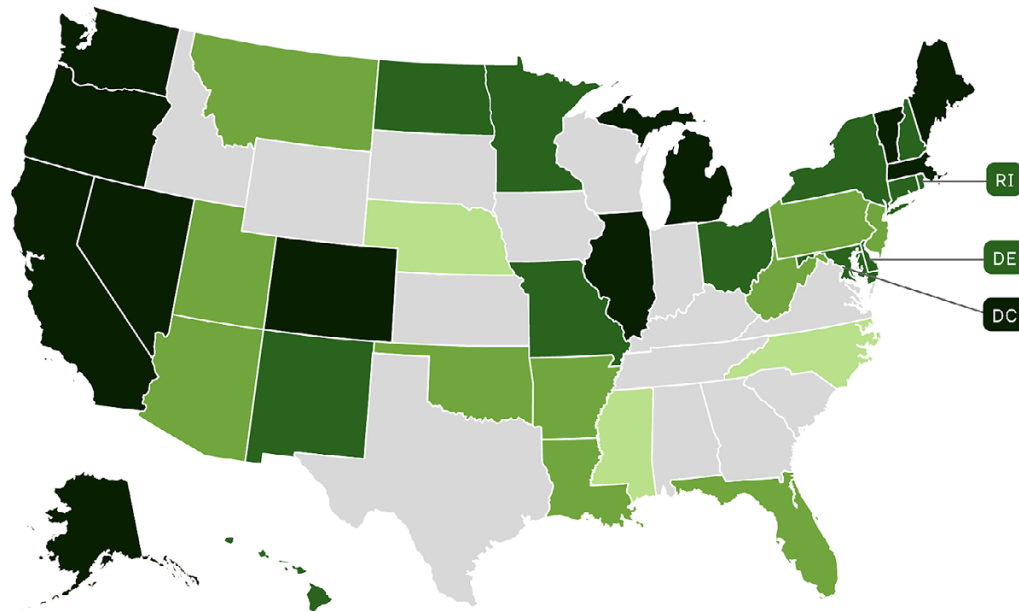


U.S. public opinion support for cannabis legalization rose from 31% in 2000 to 66% in 2019.

While marijuana has been listed as a Schedule 1 drug at the federal level since the Controlled Substances Act in 1970, individual states have passed their own laws legalizing the production and sale of marijuana in various forms, uses, and under the umbrella of different business types.

Marijuana regulation remains a controversial subject across all levels of government, not only because of **personal beliefs**, but also the complexity surrounding the changes required of policy and legislation. In spite of this, there are numerous benefits to be reaped, which are becoming increasingly apparent as more and more states and communities make the switch and publicly share the outcomes. The 2016 election season—where a historic number of states passed ballot initiatives legalizing marijuana—was a critical tipping point for the pro-legalization movement. In the upcoming 2020 election, it's showing no signs of slowing down.

■ Legalized ■ Medical and decriminalized ■ Medical ■ Decriminalized ■ Fully illegal



*Fifteen states have decriminalized, but not legalized marijuana, while 29 states and Washington D.C. allow medical marijuana, and 9 states plus D.C. have legalized recreational marijuana (though the latter allow for possession only, not retail or commercial growth). Thirty three states even offer **comprehensive medical marijuana programs** that give constituents a window to enter into the marijuana industry workforce.*



Growing evidence of the medical benefits of marijuana may lead to the federal government changing its Schedule 1 drug classification. However, even if this doesn't happen in the near future, industry pressure and international legalization efforts (like Canada's recent legislation) are

paving the way for more cannabis-friendly regulation. Since 2016, there have been ongoing legislative attempts to **explicitly allow states to pass their own marijuana laws** without interference from the federal government. The **multiple bills** currently facing the Senate lay new groundwork for decriminalization, taxation, and regulation of marijuana.

With legislative change looming on the horizon, the question now is, **how are local governments going to respond?**

While legalization is first enacted at a state level, individual municipalities define the lines of how cannabis businesses can operate within their borders. In California, for example, cannabis **businesses must prove they have permission to operate** from their local government before they can get a license to operate from the state. Permitting, local fee collections, and enforcement also fall to the municipality, making proactive and intentional regulations all the more important.

Understanding the Full Scope of Cannabis Business Types

Before we begin, it's important to understand the various ways that marijuana-related establishments relate to respective government processes spanning licensing, planning and zoning, and taxation. State laws recognize three main categories of marijuana use:

- Medical marijuana: prescribed or recommended by a doctor to treat a medical condition
- Recreational marijuana: for use by anyone over the age of 21
- High CBD/Low THC: marijuana plant or products with no or low THC (psychoactive ingredient) and high amounts of CBD (non-psychoactive ingredient), typically useful for medical treatments without the associated 'high'

There are also an array of business types that fall under commercial or non-commercial operations, as detailed in the following table.

Regulating commercial businesses is most commonly the primary focus, but even within 'commercial' types, municipalities need to decide what types of operations are appropriate for their community. For example, some communities may not allow cooperatives or delivery businesses because they are harder to regulate, while others will be more concerned with odors coming from manufacturing sites.

Commercial Operations	
Cultivator	Plants, grows, harvests, dries, cures, grades, or trims cannabis; licenses can come in different tiers depending on the size of the land being used
Testing/Research Facility	Conducts research on and quality tests marijuana; most governments don't allow the sale of marijuana or marijuana products to retailers or the public until all required testing is completed (tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide and other chemical residue screening, and residual solvents levels)
Distributor	Sells and/or transports marijuana between other marijuana businesses
Manufacturer	Produces or prepares cannabis or cannabis products, packages or repackages related products, or labels the container
Retailer	Sells marijuana or marijuana products directly to consumers; this can be limited to selling on-site, or may include deliveries
Social Consumption Establishment	An establishment or special event where cannabis is consumed

Non-Commercial Operations	
Home Grower	Grows plants in one's home, not for sale or distribution
Marijuana Cooperative	Cooperatives, also referred to as Collectives, are gardens where multiple individuals share in the costs and labor for growing plants for personal use (non-commercially); governments can distinguish between medical cooperatives and recreational cooperatives

Tracing the Impact of Federal Trends to the Local Level

There Is No One Solution: Local Context is Key

Regulating cannabis businesses isn't just a question of legality—the minutiae of what types of businesses, what types of products, and other regulatory limits have to be established by both state and local governments. These decisions aren't black and white, and there is no standard blueprint. Reviewing best practices within the local context of your individual community is the best plan for creating an effective, sustainable regulatory environment.

In cases where state legalization has already occurred, **local governments have responded to varying degrees**. Some outright ban all marijuana-related businesses, some allow medical dispensaries but not recreational, some only allow home growers, and others open their doors to all components of the marijuana industry. When considering incorporating cannabis businesses into the local tax base and economy, it's also crucial to think about how to **structure licensing in a way that can scale with a rapidly growing market**. This process should be accessible and user-friendly, so business owners are encouraged to register correctly and in a timely manner. This ensures the city or town collects all possible tax revenue, has an accurate picture of the spread of new businesses, and can oversee a smooth rollout with minimal complications.

If you're thinking this research is jumping the gun because legalization hasn't occurred in your state (yet)— understanding these details before the market opens sets you lightyears ahead in terms of planning and regulation. The more organized and structured you can be ahead of time, the more success you'll find in enacting new policies in order to receive the benefits of cannabis.



Cannabis Permitting and Licensing Considerations

Permitting and licensing is the most important consideration when it comes to how municipalities regulate marijuana. What requirements and guidelines each business type entails has to be determined by what fits for your unique community. Whatever the policy decision, implementation may involve multiple departments including business licensing, community development, finance, police, fire, health, and code enforcement. Early communication, a coordinated approach, and intra-departmental workflow management tools will help set the stage for success.

Below are some key considerations for this process, coupled with examples of how some local governments have effectively crafted policies.

1. Start simple, then expand

A rolling window for accepting applications can help promote efficient processing and turnaround by staggering the influx and helping to balance the workload of government employees.

Especially in states moving from medical to recreational legalization, it's helpful to first consider what kinds of businesses already exist in your city. For example, when the [State of Massachusetts began accepting applications for marijuana-related businesses](#) in April 2018, they organized different categories of applicants with a staggered rollout, and those categories took into account what businesses would need the least amount of resources to begin legal operations.

The first application window opened just to businesses that qualified for “expedited review” (including medical marijuana retailers already open or possessing a provisional permit), while the second round of the rollout included applications from cultivation farms, craft marijuana-growing cooperatives, and other small businesses.

A third window for retail stores, makers of marijuana-derived products, and transportation companies, included those that would likely need a more in-depth permitting and licensing process before operations could begin.

While it's still too early to tell the overall efficacy of this system, there's no denying that this conscious approach to accepting applications has helped more efficiently manage the resources available to departments, and set the stage to build upon and learn from each wave of applicants.

How may we help?

Access service information and apply online – all from here.

Search for something like "Business Occupancy Permit " or "Spe..."

Start a Project

Choose below to start a project



Open a Restaurant



Cannabis Compliance

Regulatory Permit



Remodel a Home

An example of a user-friendly permitting, licensing, and code enforcement portal from [OpenGov PLC](#) that will encourage accurate and timely cannabis business registration, fee payment, and compliance.

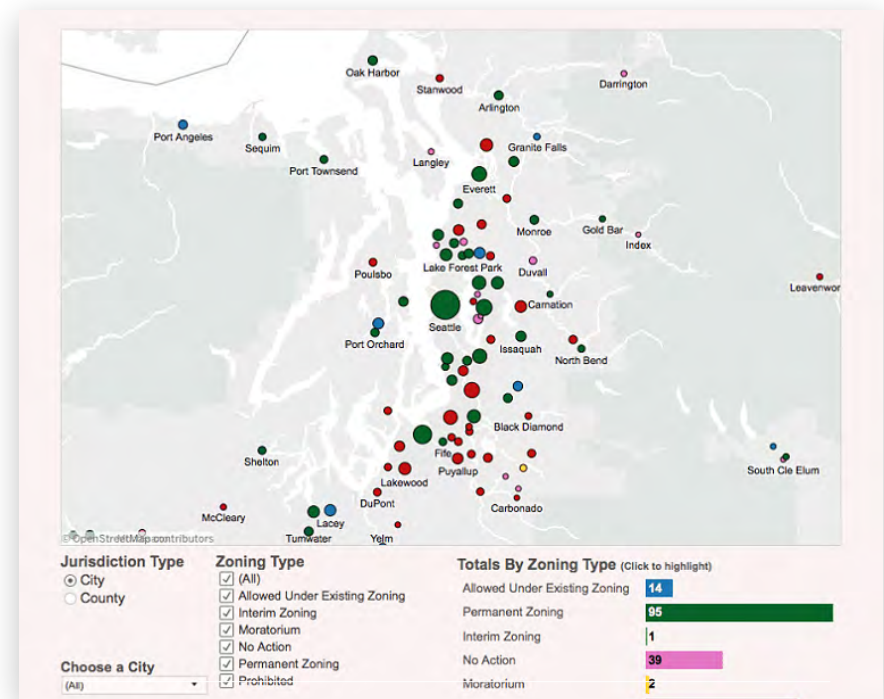
2. Establish Zoning Laws with Buffers

Local planning and zoning laws are the primary tool for regulating where and how marijuana businesses can operate—specifying which zones will and will not allow specific types of marijuana-related business operations, as well as the maximum density or total number of establishments that can exist in a given area.

In Washington State, for example, Moses Lake limited manufacturers to industrial zones, while Vancouver restricted all types of marijuana businesses to industrial or light industrial zones only.

Washington municipalities are also great examples of **how buffer zones can effectively manage where businesses can operate**. The state itself requires a 1000 ft. minimum buffer from specific entities (elementary and secondary schools, playgrounds, recreational centers, childcare centers, public parks, public transit centers, libraries, youth arcades), but towns and cities can choose to reduce the buffer down to 100 ft., except for elementary and secondary schools, as seen below:

- The City of Shelton reduced the buffer to 500 ft. for researchers, processors, and producers, but not for retailers.
- The City of Tacoma reduced retail buffer zones to 500 ft. for a slew of categories including correctional facilities, drug rehabilitation facilities, libraries, and parks, but only downtown, where businesses naturally have a closer proximity.
- The City of Shoreline incorporated development regulations for certain marijuana retailers, processors, producers, and medical cooperatives into the city's unified development code.
- The City of Newport requires certain facilities associated with marijuana production, processing, transportation and/or sale to acquire a conditional use permit in industrial zones.



Map of marijuana regulation zoning types by city in Washington State.

3. Involve the community

As noted earlier, legalizing marijuana doesn't mean all community concerns will go away. Legalizing is the first step, but figuring out how that looks in practice within a particular city or town is a different process. Addressing environmental and public safety concerns is essential, and one proactive, transparent way to do that is by incorporating community involvement as a requirement in the licensing process.

Massachusetts requires applicants to have held a community outreach meeting ([detailed in the Guidance Document](#)) in the proposed local community within the last six months and sign a Host Community Agreement (HCA) with the municipality.

There must be a public notice of the meeting describing the subject matter that will be covered and the proposed address of the applicant's establishment. A copy of the notice is also required to be filed with the town or city clerk, the planning board, the contracting authority, and the local licensing authority for adult use of marijuana (if applicable).

There are also guidelines as to what must be discussed at the community outreach meeting including:

- The type of marijuana establishment proposed
- Information demonstrating that the location will be maintained securely
- Steps to be taken to prevent diversion to minors
- A plan to positively impact the community and information demonstrating that the location will not be a nuisance
- An opportunity for Q&A between community members and a representative of the marijuana establishment

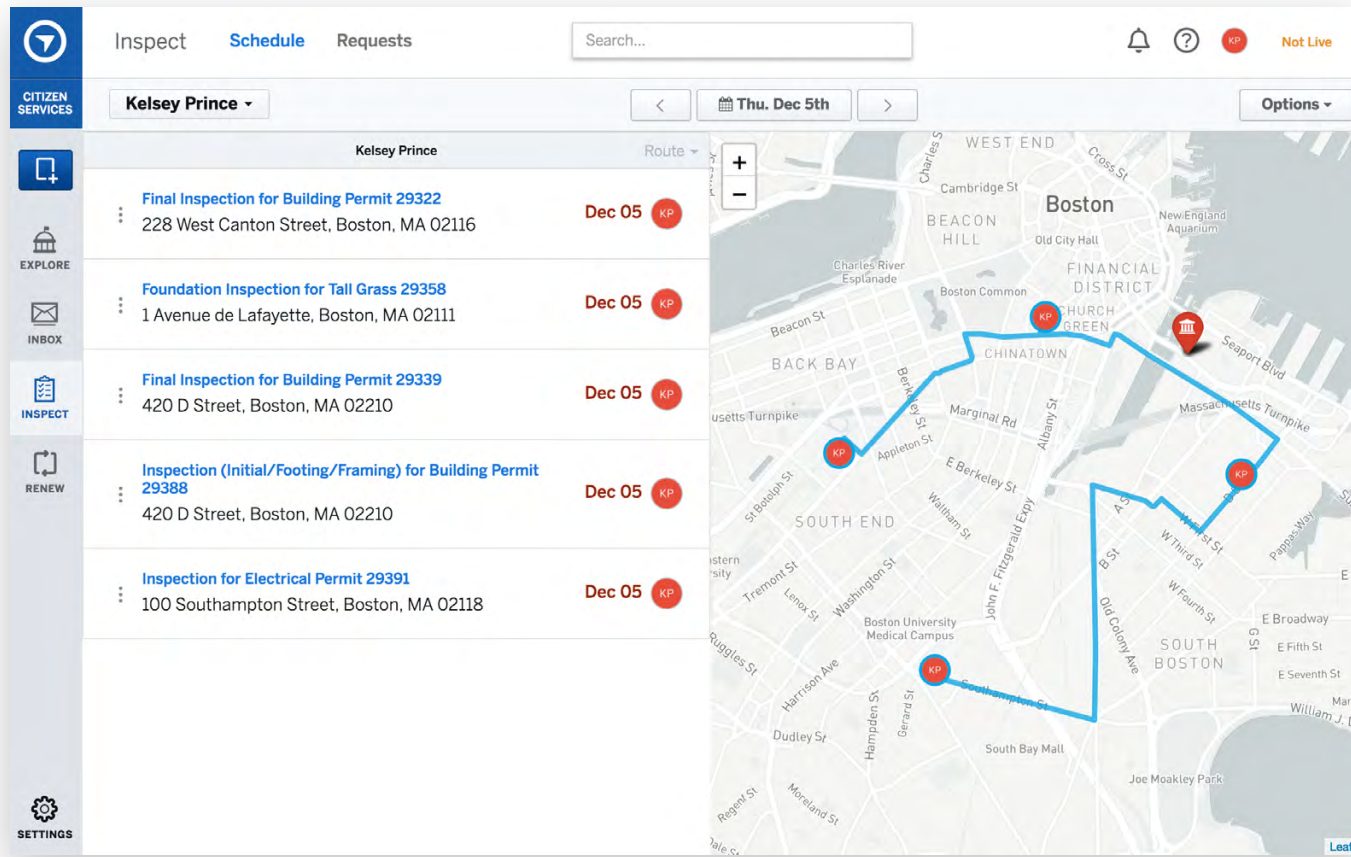
After the meeting occurs, an HCA is generated as documentation proving the meeting occurred, signed by the contracting authorities for the municipality and the applicant.

For example, [this HCA](#) between the Town of Douglas, Massachusetts and a registered marijuana dispensary looking to also open a cultivation and processing facility, contains a commitment to hire locally when possible (section 7), make capital improvements to the property to match the feel of the Town (section 8), and work with the Town's Police Department to best position exterior cameras and collaborate on security (section 11).

4. Increase inspection capabilities

As with any new establishment, the local government is responsible for making sure building, plumbing, electrical, and fire codes pass inspections before a license is issued, and that any new building that occurs is done with the proper permitting. While not every municipality has the means to hire more inspectors, it is important to anticipate an increase in the amount of inspections necessary, especially during initial rollout when there can be an influx of businesses looking to get licensed.

Allowing for online inspection scheduling will help make the permitting process more user-friendly for new applicants, as well as help inspectors focus on their field work. Overall, an easy-to-use permitting and licensing setup will improve compliance, so an organized, accessible inspections system is a high priority.



Online inspection requests and efficient scheduling can help municipalities get the most out of their time.

5. Business specific codes

Many municipalities also create additional codes specifically pertinent to cannabis-related businesses (and even different types of cannabis related businesses). This type of regulation covers how marijuana-related businesses must operate to be in compliance, in the same way liquor stores and other “adult-related establishments” are treated as a special class of business.

This may mean guidelines dictating what hours a retailer can be open between. It can also include rules on signage, how customers are served, restrictions on serving someone who is already under the influence, and a minimum level of security required for a business.

Additionally, these codes may limit outside growing, specify a maximum number of plants for the premises, or address whether plants can be visible from off the property, and if fencing is required. Especially for manufacturers, there is concern around making sure there’s no change to air quality or a pervasive smell that could bother neighbors.



The “bud room” of a cannabis grow facility in Denver, Colorado, with plants still in their early stages. Picture from Cannabis Tours on wikimedia.

6. Robust software for seed-to-sale tracking

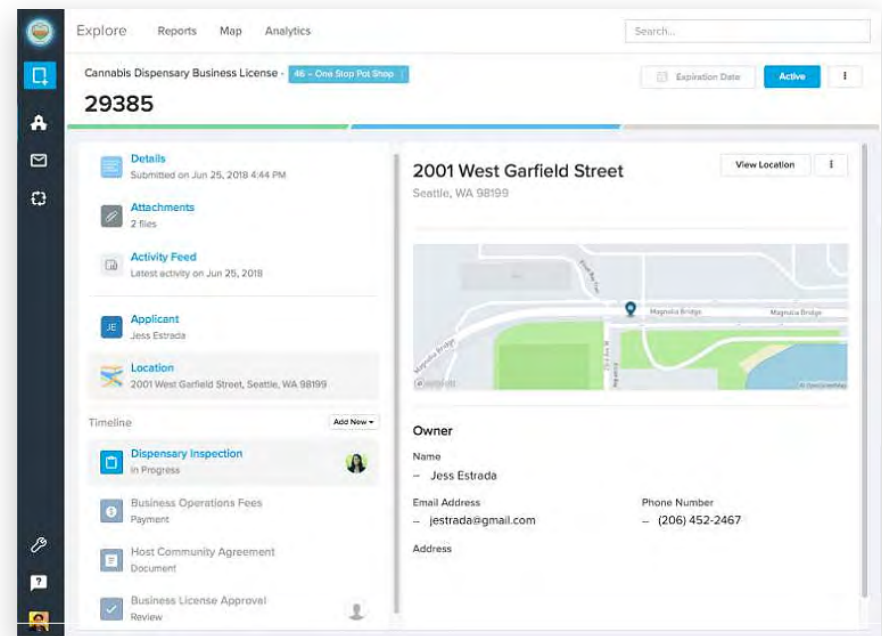
Knowing the stages of marijuana moving from production to consumption and having a centralized database with all permitting and licensing information are critical parts of effective regulation.

It becomes more difficult to crack down on illegal businesses without a centralized place to track business registration data and make that information available to all relevant departments. With a **modern, centralized system**, inspectors can record results and notes from the field, and anyone who needs to check on the status of an application or license has easy access to pertinent information and other staff members.

A centralized permitting and licensing system will help effectively regulate marijuana businesses by allowing inspectors to report data in the field, and by providing easy access to information across multiple departments.

This is an issue Oregon is currently grappling with as their permitting and licensing systems have vulnerabilities that make it hard to identify if/when a subset of marijuana-related products are being diverted outside of licensed businesses, or even outside of the state.

In a rapidly evolving industry, it's also a clear advantage to have modern, adaptable processes and softwares as rules and regulations may need to be changed as you go.



A centralized permitting and licensing system will help effectively regulate marijuana businesses by allowing inspectors to report data in the field, and by providing easy access to information across multiple departments.

7. Taxation and fee collection

Municipalities are also responsible for setting and overseeing local taxes and fees. In addition to state taxes, a town or city may set **local business license taxes**, which may include different taxes for medical and commercial businesses. Two common structures to base taxes on are percentage of gross receipts for businesses like retail, and a dollar amount per square foot for cultivation. It's also important to have a system for accepting payment by cash, as some businesses aren't currently able to work with federal banks.

Having a clear schema for business operating permit fees according to different businesses is another key step. Having a user-friendly way to calculate fees and convey that information to applicants is even better (ideally, the system will automatically calculate the fees based on the applicant's data).

Those fees can go to help cover increases in inspection and code enforcement resources needed to regulate new marijuana businesses, and taxes can be funneled back into city improvements. In Manitou Springs, CO, for example, **marijuana tax revenue helped double Manitou's general fund** and pay for long-needed revitalization.

Permit Type	BOP Fee New	BOP Fee Renewal
Cultivation up to 5,000 sq ft	\$ 9,700	\$ 8,570
Cultivation up to 10,000 sq ft	\$ 20,210	\$ 17,840
Cultivation up to 22,000 sq ft	\$ 28,910	\$ 25,300
Dispensary	\$ 23,610	\$ 20,800
Dispensary w/ Delivery	\$ 2,810	\$ -
Dispensary - Delivery Only	\$ 23,610	\$ 20,800
Dispensary - Delivery Only - Less than \$500k	\$ 9,760	\$ 8,580
Distribution Center	\$ 29,000	\$ 25,500
Distribution Service	\$ 5,530	\$ 4,850
Manufacture Type 1 - (Class A) - up to \$100k	\$ 4,440	\$ 3,700
Manufacture Type 1 - (Class B) - up to \$1m	\$ 8,880	\$ 8,400
Manufacture Type 1 - (Class C) - up to \$3m	\$ 17,660	\$ 15,500
Manufacture Type 1 - (Class D) - over \$3m	\$ 30,900	\$ 25,625
Manufacture N or P (Class A) - up to \$100k	\$ 2,590	\$ 2,290
Manufacture N or P (Class B) - up to \$1m	\$ 7,670	\$ 6,750
Manufacture N or P (Class C) - up to \$3m	\$ 16,920	\$ 14,875
Manufacture N or P (Class D) - over \$3m	\$ 28,410	\$ 23,400
Testing Lab	\$ 14,270	\$ 12,570

Example **marijuana business operating permit fees** from the City of Sacramento, CA

Moving Forward

The rapidly evolving landscape of the marijuana industry is both an exciting opportunity and a challenge for local governments. As commercial enterprises continue to develop, it will be the communities that are the most proactive and organized that reap the greatest benefits of new revenue streams, increased economic development opportunities, and revitalization of previously shuttered business districts. No matter how you choose to approach regulation, active communication, locally contextual policies, and modern tools to help connect departments to one another and to businesses are foundational keys to success.

About OpenGov Permitting, Licensing, and Code Enforcement (PLC)

Online Constituent Applications. Easier Compliance. Faster Revenue.

OpenGov's innovative Permitting, Licensing, and Code Enforcement (PLC) platform addresses the needs of local governments grappling with new cannabis permit and license types, while simultaneously delivering transparent requirements to constituents, who can conveniently apply for cannabis permits and licenses online. Digital applications are seamlessly routed through our powerful workflow automation tools to help your departments collaborate efficiently throughout the approvals process with automated task assignments, dynamic fees, and customizable performance reports. This unparalleled vision into how your team works together allows you to capitalize on the interest and investment in cannabis businesses that has the potential to generate new revenue streams to benefit your community.

About OpenGov

OpenGov is the leader in enterprise cloud solutions for government. OpenGov is the only integrated cloud solution for budgeting, planning, reporting, transparency, and permitting, licensing and code enforcement (PLC). This multi-tenant Software-as-a-Service (“SaaS”) solution connects stakeholders to the budget process, modernizes permitting and licensing operations, accurately forecasts personnel costs, and integrates with key government systems, resulting in improved outcomes, enhanced internal efficiencies, and more time for strategic planning.

Over 1,000 public agencies use OpenGov — including the State of Ohio; the City of Richmond, VA; Flagstaff, AZ; and Washington, DC. OpenGov was founded in 2012, and is backed by Andreessen Horowitz, Emerson Collective, 8VC, and Thrive Capital.

Is Your Community Grappling with Cannabis?

[Talk with our team to learn about other OpenGov PLC communities](#)



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contact@opengov.com

opengov.com



Grand Junction City Council

Workshop Session

Item #1.c.

Meeting Date: July 13, 2020

Presented By: Greg Caton, City Manager

Department: City Manager's Office

Submitted By: Greg LeBlanc, Sr. Asst. to the City Manager

Information

SUBJECT:

Marijuana Discussion

EXECUTIVE SUMMARY:

Marijuana sales in Colorado started following the passage of Colorado Amendment 64, an initiative ballot measure to amend the Constitution of the State of Colorado, outlining a statewide drug policy for cannabis, in 2012.

A common definition of marijuana is supplied in Article XVIII, Section 16 of the Colorado Constitution, which also establishes marijuana regulations effective statewide. The article defines marijuana as “all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including concentrate.” While both marijuana and industrial hemp are derived from the plant *Cannabis sativa* L., marijuana is distinguished from industrial hemp in that marijuana contains higher concentrations of delta-9 tetrahydrocannabinol (THC). The used portion of the *Cannabis sativa* plant also differs between marijuana and hemp. Marijuana is typically the flower-bud and hemp typically encompass stems and seeds.

There are three primary elements of the marijuana industry: growing; processing; and retail sale. There is also an emerging fourth element: public consumption. All are regulated at a state-level, but the state also enables local jurisdictions to promulgate their own regulations.

This item is intended for discussion and possible direction by Council. As a part of the

discussion, a representative from the Marijuana Enforcement Division (MED) will present on the topic.

BACKGROUND OR DETAILED INFORMATION:

A common definition of marijuana is supplied in Article XVIII, Section 16 of the Colorado Constitution, which also establishes marijuana regulations effective statewide. The article defines marijuana as “all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including concentrate.” While both marijuana and industrial hemp are derived from the plant *Cannabis sativa* L., marijuana is distinguished from industrial hemp in that marijuana contains higher concentrations of delta-9 tetrahydrocannabinol (THC). The used portion of the *Cannabis sativa* plant also differs between marijuana and hemp. Marijuana is typically the flower-bud and hemp typically encompass stems and seeds.

State laws distinguish between marijuana for recreational (or “retail”) and medical (or “medicinal”) uses. Please note that Medical Marijuana is regulated separately under Article XVIII, Section 14 of the Colorado Constitution. Actual marijuana products, as well as the processes involved in growth, processing, and sale of same, are essentially the same for medical and recreational marijuana. Many Colorado counties and municipalities established separate ordinances for the regulation of medical marijuana prior to legalization of recreational marijuana in the state. Some jurisdictions do allow medical marijuana related businesses but do not allow recreational marijuana businesses. Other jurisdictions regulate recreational and medical marijuana with minimal differences in zoning and permitting.

Elements of Marijuana-related Business – There are three primary elements of the marijuana industry: growing; processing; and retail sale. There is also an emerging fourth element: public consumption. All are regulated at a state-level, but the state also enables local jurisdictions to promulgate their own regulations. The state of Colorado through their Department of Revenue performs “seed-to-sale” tracking of all marijuana produced for retail sale in the state using a system called METRC. METRC requires that all marijuana be assigned and accompanied by a tracking tag called an RFID at all stages in the process. No marijuana grown outside the state can be sold in the state.

Growing – State laws distinguish medical grows from recreational grows, though the actual growing processes are generally identical. Marijuana can be grown with natural light outdoors, with artificial light indoors, or with both kinds of light in a “mixed-light” grow. Such grows, when related to processing and retail, are typically large-scale. These large, intensive grows may have a significant draw on electrical, water, and other utility services, and in some parts of the state may have as many as 15,000 plants indoors or involve dozens of outdoor acres. The state enables jurisdictions to

regulate marijuana grows for retail purposes. These require a Retail Marijuana Cultivation License from the state, and typically also require a Local License issued by the local jurisdiction.

However, per the Colorado Constitution and indifferent of local regulations, an individual over age 21 can grow up to six plants, up to twelve per residence, with restrictions on public visibility and accessibility by children. These homegrown products cannot be sold on the retail market. A primary distinction between the medical and recreational marijuana industries is the “Caregiver” function. A medical marijuana patient can designate another resident as a Caregiver; the Caregiver may then be allowed to grow an additional six plants allotted to that patient. A caregiver may grow plants for up to five patients plus themselves, for a total of 36 plants; a waiver extending the plant count may be granted by a medical professional, but this happens rarely. Occasionally, groups of Caregivers have created cooperatives to combine their plant totals at a single growing location. For several years this resulted in hundreds of plants to be grown at a site without regulation by the local jurisdiction, but a 2017 law limited the right of per-person medical and recreational marijuana grows to be combined in a single location. Jurisdictions cannot infringe upon the aforementioned home-grow and Caregiver rights, and for this reason the City has approved site plans and change of use applications related to medical marijuana grow operations in the City.

Processing – Marijuana is typically processed before consumption into a variety of forms. Processing of raw plant material into marijuana for consumption as smoke or vapor can be limited to the trimming and curing of marijuana flower-buds, which is generally allowed at cultivation facilities. In land use regulations, “processing” typically refers to more intensive procedures used to make oils, waxes, products intended for consumption as food and drink (marijuana “edibles”), tablets, sprays, liquid extracts, or topical creams. All such processing facilities require licensing at the state level and can be regulated by local jurisdictions.

Certain marijuana-related land uses can be subsumed under the processing category but are also regulated separately by certain communities. Examples include marijuana research and development facilities and marijuana testing facilities. Testing facilities may be a particularly important concern for Grand Junction, where the hemp industry has already indicated the need for a State-approved testing facility on the Western Slope.

Retail Sales – After processing, marijuana is sold directly to consumers in specialized retail locations, rather than as a product in a general retail store. These locations are usually recognizable as a store or shop, often called a “dispensary” whether medical or recreational in nature. Retail sales of marijuana also require state licensing and require further licensing requirements in most municipalities. These premises have security

and surveillance requirements under state law. Products are subject to safe handling requirements and all sales are managed by an employee who may only transact in a form that meets “closed container” requirement, akin to requirements for alcohol sales.

Consumption – A fourth, emerging dimension of the marijuana industry encompasses sites for public consumption. Generally, marijuana must be consumed on private property and without generation of nuisance; however, as of January 1, 2020, Colorado has legalized businesses that facilitate consumption in some public places, in and out of doors. Specifically, “marijuana hospitality establishments” have been introduced to counteract problems with public consumption by tourists. Licensed establishments for public consumption of marijuana are generally equivalent to bars where alcohol is consumed. These may be allowed for sections of hotels, and under state law these may even include “mobile premises” such as tour buses. These uses can be regulated by local jurisdictions.

Marijuana Regulations in Colorado Communities – Other communities in Colorado have already adopted marijuana regulations. These communities exhibit a range of regulatory approaches, with some regulating only one or some of the elements of marijuana-related businesses. Examples include:

- The Town of Palisade conditionally permits recreational and medical marijuana sales in a range of zone districts, and conditionally allows cultivation and processing in the same zones as well as in their more agricultural zone districts. By contrast, the City of Fruita and Mesa County passed Ordinances similar to the one passed by the City of Grand Junction, prohibiting all uses related to recreational marijuana as well as the sale of medical marijuana.
- The City of Glenwood Springs conditionally allows cultivation and sale in a range of mixed-use, commercial, and industrial zone districts with a special use permit.
- The City of Delta conditionally allows a full range of medical marijuana land uses but does not allow any recreational marijuana land uses.
- The City of Montrose does not allow any medical marijuana or recreational marijuana land uses except for those rights to personal cultivation and consumption protected by the Colorado Constitution.

Other regulations can be compared from outside Western Colorado. The City of Pueblo conditionally allows marijuana-related land uses except for retail sales. By contrast, Pueblo County has allowed retail sales, growing, and processing in several zone districts, leading to a proliferation of marijuana retail at the edge of the incorporated city limits. The State of Utah allows marijuana for medical purposes only, including medical marijuana dispensaries. Utah does not allow land uses related to recreational marijuana, and enforces a criminal penalty for cultivation, consumption, and sale.

Overall, most major Colorado metropolitan areas have allowed marijuana-related

businesses while many smaller communities have not. As of January 2019, at least 106 Colorado jurisdictions have allowed recreational and/or medical marijuana businesses, 77 of these being municipalities (less than 30% of the total 270 municipalities in the state). Denver, Colorado Springs, Fort Collins, and Boulder are among them. The total number of marijuana businesses in the state has accordingly increased. As of April 1, 2020, there are 685 licensed retail recreational cultivators and 463 licensed retail medical cultivators, as well as 590 licensed retail recreational stores and 435 licensed retail medical stores.

Enforcement – While the Marijuana Enforcement Division (MED) regulates the licensing from the state perspective, a separate license is recommended or in some cases required by ordinance to operate such an establishment within city limits. The Grand Junction Police Department recommends that the perception of increased criminality be addressed and how it could affect our local community. The Department is working with police agencies across the state to study the further understand the issue. Other considerations include whether initial parameters are set regarding allowing cultivation operations or just retail within city limits. Regardless, law enforcement will need to understand opportunities and challenges regarding criminal activity, licensing, and locations of operations.

Some law enforcement agencies across the state specifically earmark revenue from marijuana sales for law enforcement personnel to ensure compliance is maintained within the businesses. This is not the role of the MED, but rather local law enforcement.

Zoning for Marijuana-related Land Uses – Land use and zoning regulations are important to most jurisdictions' approaches to marijuana-related businesses. Statewide, many communities that allow marijuana sales identify retail sales of marijuana as allowed or conditionally allowed uses in a range of commercial and industrial zone districts. Processing facilities are typically allowed or conditionally allowed in commercial and industrial zone districts. Growing operations are typically allowed in these same districts, and sometimes in rural and/or agricultural residential districts. Most marijuana-related land uses not allowed in residential zones, except for personal and medical grows protected by state constitutional law. Moreover, the question of whether marijuana-related uses are considered desirable in a zone district depends heavily on local conditions. Some communities have concentrated marijuana sales in blighted districts to try to revitalize those districts. Other communities have attempted to spread marijuana sales throughout the community or to separate marijuana sales from other uses that may be considered incompatible.

One strategy for limiting the total number of marijuana businesses in the community is to establish a quota or numerical limit, either citywide or pertaining to various neighborhoods or districts. For example, the City of Palisade has established a

maximum of two marijuana sales locations. Entire states have also established quota systems, such as Maine, which is divided into eight districts allowing one medical marijuana dispensary location in each district. Those with quotas usually resort to a lottery system for issuance of a limited number of permits.

A common strategy for controlling location of marijuana-related businesses is to establish “marijuana free districts” or “exclusion zones.” In such a zone or district (typically effected as an overlay zone), no marijuana-related business may operate. This strategy has been used by many communities to keep marijuana businesses out of downtowns; the strategy has been applied to a seven-block area in downtown Palisade. Another common strategy, which is widely used in California and functions inversely to marijuana exclusion zones, are so-called “green zones” where marijuana-related businesses are specifically allowed. These green zones may have different layers for growing, processing, and sales. Usually, communities with green zones do not allow marijuana-related business outside of the green zone.

Marijuana cultivation is typically regulated separately from other agricultural uses, such that Land Use Code definitions associated with agriculture usually must be amended. Grows are typically an industrial activity, rather than an agricultural activity, and are often allowed or conditionally allowed in industrial zone districts. Marijuana cultivation may also pose challenges for various utilities. Heavy and intermittent electrical demand, high water consumption, and potential contamination of water with significant fertilizer runoff have all posed challenges for utilities in various communities. An important consideration in regard to growing of marijuana is whether to allow indoor grows only, or to allow outdoor or mixed-light grows. Allowing outdoor growing operations typically requires substantial screening standards to reduce visual impacts and makes control of odor nuisance much more difficult. Another challenge attendant to outdoor grows is the difficulty of controlling pollen from marijuana plants. Pollen from marijuana plants can fertilize hemp plants, such that THC quantities in the hemp exceed allowed limits and the crop must be destroyed.

Whereas marijuana cultivation is usually regulated very differently than other agriculture, regulations for the processing of marijuana generally align with both the overall zoning standards for industrial uses. In particular, many processing uses require hazardous materials of various kinds. Like marijuana cultivation, processing is generally subjected to extra measures for control of odor nuisance.

Further, as the marijuana industry has evolved, some businesses have specialized while others have sought to vertically integrate. Thus, a community that allows marijuana-related uses can expect to see requests for combined facilities for growing, processing, and sales, or any combination thereof, in addition to requests for businesses specializing in only one of these elements of the industry. Challenges may accordingly arise if zoning for growing, processing, and retail do not adequately

overlap.

Mitigating negative impacts of marijuana related businesses may also present an equity issue. Prior to legalization, a large and well-documented disparity in marijuana-related criminal charges created a disproportionate negative impact on low-income people and people of color. Similarly, a growing body of research indicates that the negative impacts of legal marijuana are also felt by racial minorities and poor neighborhoods. This is the case with many LULUs, or “locally-unwanted land uses,” such as liquor stores, homeless services, rehab centers, and prisons. Land use and zoning regulations should be designed to prevent the discriminatory impact of noise, odor, light, traffic, volatile organic compounds (VOCs), air quality, and other nuisance on the City’s minority and low-income residents. This knowledge should inform zoning decisions, including decisions regarding the location of “green zones” or “exclusion zones” should the utilization of these zoning tools be considered.

Use-Specific Standards – In addition to general zoning for marijuana businesses, other standards impact location. A Colorado State standard requires that no dispensary be within 1000 feet of a school, though local governments may modify this distance. Some communities establish distance requirements between marijuana businesses and other uses, possibly including hemp grows as alluded to above. Other potential marijuana-related nuisances may be mitigated through use-specific standards. For example, parking requirements per square foot may be higher than for other retail uses, especially in communities with limits on the number of marijuana retail locations. Many municipalities also establish limits on the floor area of a retail location, to prevent the establishment of very large marijuana stores and to limit the potential impacts on real estate market under certain conditions. Other common performance standards include limits on the visual and written references to marijuana on signage; window opacity standards; odor control requirements beyond general municipal standards; and site improvements beyond general municipal requirements.

This item is intended for discussion and possible direction by Council. As a part of the discussion, a representative from the Marijuana Enforcement Division (MED) will present on the topic.

FISCAL IMPACT:

A fiscal impact could be prepared based on direction from City Council.

SUGGESTED ACTION:

This item is intended for discussion and possible direction by Council.

Attachments

None