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**GRAND JUNCTION CITY COUNCIL  
MONDAY, SEPTEMBER 20, 2021  
WORKSHOP, 5:30 PM  
CITY HALL AUDITORIUM AND VIRTUAL  
250 N. 5<sup>TH</sup> STREET**

**1. Discussion Topics**

- a. Marijuana Regulations - ***Council discussion, no public comment will be accepted***

**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**

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*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/](http://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](mailto: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 1<sup>st</sup> and 3<sup>rd</sup> 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.**

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**Meeting Date:** September 20, 2021  
**Presented By:** Tamra Allen, Community Development Director  
**Department:** Community Development  
**Submitted By:** Tamra Allen, Community Development Director

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**Information**

**SUBJECT:**

Marijuana Regulations - *Council discussion, no public comment will be accepted*

**EXECUTIVE SUMMARY:**

The City Council continues to consider the regulation of retail marijuana sales as enabled by the voter's approval of referred measures 2A and 2B. For this work session, Staff has prepared two draft ordinances for the Council's review. Those ordinances reflect the direction given at the July 21st City Council meeting. One ordinance is designed to update the City Tax Code to apply a special marijuana sales and use tax of 6% to retail marijuana sales. At that rate the cumulative state and local tax rate will be 26.62%. That rate closely tracks Town of Palisade tax on marijuana. The second ordinance proposes the zoning and buffering for retail marijuana sales. The ordinance also includes use specific land use standards.

The City Council has neither reached consensus on a numerical limit (cap) (if any) on the number of stores nor on the selection process for licenses should a cap be imposed; these two questions, which are interrelated, will be the primary discussion topics for this work session. All topics, including zoning and buffering, remain under consideration for adjustment. An updated timeline for the regulatory process, reflective of the current status of policy discussions, is attached.

**BACKGROUND OR DETAILED INFORMATION:**

**BACKGROUND**

Since approval of measures 2A and 2B the Council and Staff have primarily considered the sale of retail (*i.e.*, recreational) marijuana; consideration of cultivation and/or products manufacturing, will be considered for City licensing and regulation at a later date. With the County's recent referral of a products manufacturing and cultivation to the November 2021 ballot, it may be prudent to begin discussion on these marijuana-

related business types soon than originally projected.

To accomplish development of a City regulatory structure of marijuana stores, several tasks must be completed. The primary tasks are 1) a determination of a numerical cap on licenses, if any, and 2) the mechanism(s) for selecting licensees if a cap is imposed.

### **Marijuana Stores**

A marijuana store license permits the establishment of a physical store or dispensary location. Such a business may sell marijuana to persons over the age of 21 or, in the case of medical stores, to any person holding a valid medical marijuana license. An individual cannot purchase more than 1 ounce of retail marijuana or 2 ounces of medical marijuana. A store may also sell marijuana concentrates, infused products (edibles), ointments, balms, lotions and other topical products. A store may only operate between the hours of 8 a.m. – midnight, or as further restricted by the municipality. A store must receive a license from the City and a separate license from the State. Marijuana stores will require a sales tax license for the collection of sales taxes.

### **City Council Direction**

The Council has discussed marijuana businesses at several public hearings prior to, and since, the municipal election. In those discussions, Council has clarified that first consideration should be given to establishing marijuana sales business (*i.e.* stores or dispensaries) regulations with other types of marijuana business to be considered later. Council also directed staff to solicit public input on questions related to the regulation of stores.

Staff facilitated a public survey in May and June. The survey and response to it were designed to support the Council in determining the most appropriate response to a range of key policy decisions. The public outreach process included seven staff listening sessions and a Council listening session. The most recent Council discussions were on July 19 and July 21. Following public comment and Council deliberation, direction was given to:

1. Establish zoning regulations for marijuana stores that reflect the zoning of general retail sales under the existing Land Use and Development Code. Zones where general retail sales are currently permitted are the C-1 (Light Commercial), C-2 (General Commercial), B-1 (Neighborhood Business), B-2 (Downtown Business), M-U (Mixed Use), MXG-3 (Mixed Use General), and MXOC (Mixed Use Opportunity Corridor) districts. And, to consider the preference of the Downtown Development Authority to develop additional restrictions for Main Street between 1st Street and 8th Street, including the prohibition of marijuana stores on the ground floor of buildings.
2. Establish regulations to include buffering from: Schools including CMU and WCCC (1000 feet); Parks and Park Land (500 feet); and Rehabilitation Facilities (500 feet).

3. Amend the Municipal Tax Code to set a 6% special marijuana sales and use tax rate. Additionally, at the July 21<sup>st</sup> meeting, the City Council voted marginally in favor (4-3) of setting a numerical cap near 10 stores but voted (4-3) not to direct staff to develop regulations that would create a hybrid licensing process. Because the numerical cap and the selection process are dependent upon each other, staff recommend further discussion on both of these topics. With regard to the selection process, a series of alternatives including a lottery process, a merit-based review based on criteria (as yet to be determined), a hybrid process involving a lottery of businesses that meet certain merit-based review criteria, and a weighted lottery, wherein businesses meeting certain merit-based review criteria might be awarded higher odds in success in a lottery on the basis of merit are all still up for consideration and direction from Council.

Related to these potential approaches to licensing are the criteria that might be used to review applicants. A list of criteria that have been used by other communities has been included for review; however, staff does not recommend utilizing those that are wholly subjective.

### **Rate of Taxation**

The taxation of marijuana combines several taxes comprising a total tax rate in Grand Junction. Specifically, the Grand Junction sales tax of 3.25% and the Mesa County sales tax of 2.37% are applied to marijuana as a retail sale transaction. A 15% State Marijuana Sales Tax is also applied; the 15% includes the State Sales Tax of 2.90%. Of the 15% State Marijuana Sales Tax, 10% (of the 15% - or 1.5% of the state tax) is shared back to the City. A 6% special marijuana sales and use tax would result in total taxes on marijuana in Grand Junction of 26.62%.

The allocation of tax revenues is provided for in the text of referred measure 2A, which reads:

For the improvement and protection of the community and health and welfare of its citizens, as follows: The enforcement of regulations on the related marijuana industry and other costs related to the implementation of the use and regulation of regulated marijuana and lawful utilization of marijuana; and building, operating and maintaining the highest priority(ies) of the adopted Parks and Recreation Open Space (PROS) Plan which include indoor and outdoor recreation and park facilities, capital improvements and enhancements to the City's parks, trails and open space system.

In addition, applicable tax revenue from the City's base sales tax of 3.25% applied to marijuana sales would be directed to the General Fund (2%), the .75% Sales Tax Capital Improvement Fund (.75%), and the First Responder Fund (.5%).

### **Numerical Cap**

Many Colorado communities have limited the number of stores that operate in their jurisdictions by setting a cap. Examples include Glenwood Springs, Palisade, and Longmont. It is possible to increase that limit over time; conversely, political and legal challenges have consistently arisen when communities have sought to decrease the cap retroactively. A numerical cap requires a defined selection process but is

compatible with the various selection process options.

The recitals for April 2021 referred ballot measure 2B indicated a possible limit of six (6) retail marijuana stores. However, no cap is imposed by the approved measure and there are policy and economic reasons, principally “free market” principles and likening the regulation of marijuana stores to liquor stores, to not impose a cap.

If a cap is favored, then Staff recommends that the Council consider the relationship between the number of stores and the possible size and traffic and other attendant impacts of each store. Staff further recommends that Council consider whether a set number of stores would apply City-wide, or whether a cap would assign certain numbers to variously identified sub-districts.

In general, there are three methods to creating a cap. Those are: a **zoning and buffering** approach, a total **number cap**, and a **cap-by-district**. Each approach would include zoning and buffering; however, with a “zoning and buffering” approach zoning and buffering would be the sole considerations.

- **Zoning and Buffering Approach.** Limit the location of stores by buffering from identified land uses and by establishing appropriate zone districts, without establishing a *de jure* numerical cap. This would indirectly lead to a maximum number of stores by creating conditions that naturally limit where stores may be located.
- **Total number Cap Approach.** Establish an exact maximum by number, with further restrictions by buffering store locations from identified land uses and by establishing appropriate zone districts.
- **Cap-by-District Approach.** Establish an exact maximum by number as well as by setting a numerical cap within each neighborhood area or subdistrict, with further restrictions by buffering store locations from identified land uses and by establishing appropriate zone districts.

The “cap-by-district” approach has been the subject of additional analysis by staff. A set of maps was provided to Council (July 19<sup>th</sup>) exhibiting a range of options for district-by-district caps, as would compliment a zoning and buffering approach.

### **Selection Process**

Staff has identified four selection process options for Council consideration. Those are: a **merit-based** approach, a **lottery** (*i.e.*, random) approach with minimum criteria for entrance into the lottery, a **weighted lottery** approach wherein a set of merit-based criteria are used to weight odds of success in the lottery toward businesses meeting such criteria, and a **hybrid** approach that uses a lottery with more stringent merit-based criteria to qualify applicants into the lottery process.

The merit-based approach will include a full analysis of the merits of applications, using a predetermined point-based scoring system. This approach has been used successfully in other Colorado communities. This process is labor intensive, as applications are typically information-dense and lengthy, resulting in a large amount of staff time required for processing. This process can also be challenging due to the

potential for subjectivity in the scoring of applications.

The lottery (*i.e.*, random) approach has been successfully used in many communities to select among would-be operators. A certain set of baseline criteria, including background investigations and criminal history checks, could exclude an applicant from the lottery, but any exclusion(s) would not be related to more complex assessments of merit. After an application period has ended, a random selection process is carried out, without regard to specific features of applications that might be used to determine which applicant is best qualified based on the standards and priorities of the jurisdiction.

The weighted lottery approach includes elements of the lottery and merit-based selection processes and establishes a threshold(s) of merit-based qualifications that could earn certain applicants an increased likelihood of success in the lottery. For example, if using a lottery-ball and spinner mechanism, applicants with certain scores based on a review of merit could be awarded 1, 2, or 3 balls in the spinner. A similar weighting process can be used with a different mechanism.

The hybrid approach establishes a set of merit-based requirements above and beyond baseline criminal history criteria; businesses that meet the higher merit-based standard are moved into a lottery selection process. This may, depending on the baseline criteria, help select applicants that meet any policy aims established by the jurisdiction, without requiring the same amount of staff time as a fully merit-based review.

### **Selection Criteria**

The topic of selection criteria relates directly to the topic of selection method. Scoring of applications based on merit — whether in a hybrid, weighted lottery, or merit-based system — will require establishing a set of criteria for assessing merit. Merit may be thought of in two primary categories: general sufficiency and policy priorities. Together, sufficiency and policy priorities would constitute a full list of criteria for assessing an applicant who wishes to obtain a license for operating a marijuana store. Such criteria can be variously weighted and may be considered either optional or requisite. More specifically, review criteria may consider:

#### *Sufficiency*

- Financial Record and Planning
- Record of Experience
- Non-Criminality of Owners and/or Employees
- Operational Planning
- Adherence to State and Local Regulations
- Application Quality

#### *Policy Priorities*

- Status and Structure of Owners
- Interests of Workers and Protected Classes
- Social Impact Reduction

- Environmental Benefit
- Other Community Benefit

### **Timeline**

The most recent direction from the City Council has been to pursue a timeline that would result in licensing of marijuana stores during the first quarter of 2021. This timeline, in more detailed fashion, has been described as follows:

#### *Quarters 2 & 3, 2021*

- Council adopts regulations applicable to marijuana sales;
- Staff prepares tax code amendments;
- A local licensing authority is established; and,
- A process is identified for evaluating marijuana license applications.

#### *Quarter 4, 2021*

- City reviews local license applications for retail stores; and,
- City Council hears ordinance for products manufacturing.

#### *Quarters 1 & 2, 2022*

- Estimate start of issuance of approved local licenses for retail stores; and,
- Open applications for products manufacturing licenses.

#### *Quarters 3 & 4, 2022*

- City Council hears ordinance regarding cultivation; and,
- Open applications for cultivation licenses.
- Given that Quarter 3 of 2021 is nearly complete and given that not all tasks assigned by this timeline to Quarter 3 of 2021 are complete, it is necessary to pursue an alternative timeline. A new timeline will be highly dependent the selection process, if any, chosen by Council. A draft revised timeline has been attached for review.

### **Next Steps and Direction**

At the September 20<sup>th</sup> work session, the Council is encouraged to confirm and provide direction regarding the topics discussed above. Specifically, the following items are essential to the continued development of regulations:

- Provide direction on a numerical cap, if any, for marijuana stores;



- Provide direction on a selection process, if any, for awarding licenses to marijuana stores; if a merit-based approach is favored, provide direction on the approach to merit-based review criteria; and
- Review and discuss the revised timeline for the licensing of marijuana stores.

**FISCAL IMPACT:**

N/A

**SUGGESTED ACTION:**

For discussion only.

**Attachments**

1. ORD-Marijuana Tax - DRAFT 09.20.2021
2. ORD-Marijuana ZDC Ordinance - DRAFT 09.20.2021
3. Merit-Based Review and sample criteria
4. Marijuana Timeline Revised 09.20.2021
5. Motions Regarding Marijuana Business Regulations 07.21.2021
6. Public Comment - Invest in GJ - Dr. Pramenko
7. Public Comment - W. Drobney

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND TITLE 3 IN THE GRAND JUNCTION MUNICIPAL CODE TO INCLUDE A RETAIL MARIJUANA SALES AND USE TAX AND A MARIJUANA EXCISE TAX.**

**RECITALS:**

In October 2010, the City Council adopted Ordinance 4437 which prohibited the operation of medical marijuana businesses in the City limits and amended the Grand Junction Municipal Code by the addition of certain sections prohibiting specified uses relating to marijuana. A petition protesting the passage of Ordinance 4437 was filed, found to be sufficient, and the Ordinance was suspended.

In December 2010 the City Council approved a ballot question referring Ordinance 4437 to the regular municipal election on April 5, 2011. Referred Measure A was approved by the voters, prohibiting the operation of medical marijuana businesses and amended the Grand Junction Municipal Code to prohibit certain uses relating to marijuana.

Colorado Amendment 64 was passed by the voters on November 6, 2012. Amendment 64 included an amendment to Article 18 of the Colorado Constitution by adding a new Section 16 regarding the personal use and regulation of marijuana. Amendment 64 allows retail marijuana stores and makes it legal for anyone 21 years or older to buy marijuana at those stores. The Amendment allows anyone over 21 years of age to legally possession and consume up to one ounce of marijuana. Amendment 64 required the State to develop and adopt laws, regulations, and processes concerning marijuana.

In February 2013, City Council approved Resolution 07-13, adopting marijuana policies for the City and restrictions for persons or entities from applying to function, do business, or hold itself out as a marijuana facility, business or operation in the City limits. Later that same year, City Council adopted Ordinance 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores. It also amended Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibit certain uses relating to marijuana.

In late 2015, the City, Mesa County and Colorado Mesa University, by and through the efforts of the Grand Junction Economic Partnership (GJEP), were successful in establishing the *Colorado Jumpstart* business development program. One business who was awarded the first *Jumpstart* incentive planned to develop a laboratory and deploy its advanced analytical processes for genetic research and its ability to mark/trace chemical properties of agricultural products, one of which was marijuana. In October 2016, City Council passed Ordinance 4722 which amended Ordinance 4599 and Section 21.04.010 of the Grand Junction Municipal Code to allow marijuana testing facilities in the City.

City staff and community members, including the Marijuana Working Group, have researched, reviewed and discussed various approaches to taxation, permitting and regulation of marijuana within the City and provided to City Council such information and recommendation for the moratorium to be lifted on marijuana businesses.

On January 20, 2021 the City Council approved Resolution 09-21, the adoption of which referred a ballot question to the regular municipal election on April 6, 2021 to repeal Referred Measure A contingent on and subject to voter approval of taxation of marijuana businesses. A majority of the votes cast at the election were in favor of repealing the moratorium on marijuana businesses and in favor of taxation of marijuana businesses.

City Council has determined to allow retail marijuana businesses within the City. On \_\_\_\_\_, Ordinance No. \_\_\_\_\_ was approved by City Council which developed rules and regulation for licensing and operating retail marijuana businesses.

There are indirect costs to the City of the use of marijuana that are not covered by the license and application fees paid by the retail marijuana business. Many of those costs are related to the fact that marijuana is illegal at the federal level and the state has not been able to fully fund enforcement of laws adopted at the state level, leaving enforcement of marijuana laws to the local municipalities. Further, there are not comprehensive substance abuse programs related to the legal use of marijuana.

Imposing both an excise tax and a special sales and use tax on marijuana and marijuana businesses would provide resources necessary for the City to be able to pay the indirect costs, including education and programs, related to the use of marijuana.

City Council requested that staff prepare an ordinance that approves a sales and use tax of 6 percent and an excise tax of five percent.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:**

Title 3 shall be amended as follows (additions documented in **bold print** and deletions marked with ~~strike-through notations~~):

3.12.020 Definitions.

***Retail marijuana* has the same meaning as set forth in Section 16(2)(f) of Article XVIII of the Colorado Constitution.**

***Retail marijuana products* has the same meaning as set forth in Section 16(2)(k) of Article XVIII of the Colorado Constitution.**

***Retail marijuana store* has the same meaning as set forth in Section 16(2)(n) of Article XVIII of the Colorado Constitution (an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers).**

3.12.030 Levied.

(d) In addition to the general sales tax of 3.25 percent levied in subsection (a) above, there is hereby levied a special sales and use tax of 6 percent on the full purchase price paid or charged for tangible personal property and taxable services purchased or sold at retail by any retail marijuana store exercising a taxable privilege in the City by the sale of such property or services. Each retail marijuana store shall pay the tax on every sale or transfer of retail marijuana product(s). The additional sales tax shall be collected by the vendor and remitted to the City. All revenue derived through the retail marijuana sales tax shall go to the General Fund for general municipal purposes, including public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including, without limitation, prevention, treatment, education, responsible use, intervention, and monitoring, with an emphasis on youth with the remainder used to fund other governmental expenses including police, fire, libraries, transportation and general government.

3.12.070 Exemptions from sales tax.

*Wholesale sales* means a sale by a wholesaler to retailers, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter. **Wholesale sales of retail marijuana are subject to an excise tax under the provisions of this Chapter.**

### Chapter 3.16 Retail Marijuana Excise Tax

3.16.010 Purpose and legislative intent.

The City Council intends that an excise tax be imposed on the first sale or transfer of unprocessed retail marijuana by a retail cultivation facility within the City. The purpose of this tax is to increase the revenue base for the City to fund the enforcement of regulations on the retail marijuana industry, other costs related to enforcement of marijuana laws, education and public health programs associated with marijuana consumption and other City expenses. All revenues from the tax shall be deposited in the General Fund.

3.16.020 Definitions.

As used in this Chapter, *average market rate* means the amount determined by the State pursuant to Section 39-28.8-101(1), C.R.S., as the average price of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer. All other terms in this Chapter shall have the same meaning as set forth in Title 5 Chapter 13 of this Code.

### **3.16.030 Imposition and rate of tax.**

**There is hereby levied an excise tax of five percent upon the average market rate of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer.**

### **3.16.040 Vendor liable for tax.**

**Each retail marijuana cultivation facility shall collect the tax imposed in Section 3.16.030 above upon every sale or transfer of unprocessed retail marijuana from the cultivation facility. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Article.**

### **3.16.050 Taxes collected held in trust.**

**All sums of money paid by any person or facility to a cultivation facility as excise taxes pursuant to this Article are public monies that are the property of the City. The person required to collect and remit retail marijuana excise taxes shall hold such monies in trust for the sole use and benefit of the City until paying them to the Finance Director.**

### **3.16.060 Licensing and reporting.**

**(a) Every person with a duty to collect the excise tax imposed by this Article shall obtain a tax license pursuant to Title 5 Chapter 13 of this Code, report such taxes collected on forms prescribed by the Finance Director and remit such taxes to the City on or before the 20<sup>th</sup> day of the month for the preceding month under report. A tax license shall be valid so long as:**

- (1) the business remains in continuous operation**
- (2) the license is not canceled by the licensee or revoked by the City; and**
- (3) the business holds a valid retail marijuana license from the City pursuant to Title 5 Chapter 13 of this Code.**

**(b) The tax license may be canceled or revoked by the City as provided in Chapter 12 Section 250 of this Title.**

**(c) Whenever a business entity that is required to be licensed under this Article is sold, purchased or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new tax license.**

**(d) Every person engaged in the retail marijuana cultivation business in the City shall keep books and records according to the standards of the Finance Director and subject to the Finance Director's right to audit set forth in GJMC Section 3.12.270.**

(e) The provisions set forth in Sections 3.12.260, 3.12.270, 3.12.290, 3.12.300, 3.12.330 thru 3.12.580 of this Code shall all apply to retail marijuana excise taxation by the City.

**3.16.070 Duties and powers of the Finance Director.**

The Finance Director is authorized to administer the provisions of this Chapter.

**3.16.080 Prohibited acts.**

It is unlawful and a violation of this Code for any retail marijuana business to sell or transfer unprocessed retail marijuana without the tax license required by this Article, the retail marijuana license required by Title 5 Chapter 13 of this Code and any other licenses required by law, to willfully make any false or fraudulent return or false statement on any return, or to willfully evade the payment of the tax, or any part thereof, as imposed by this Chapter.

**ALL OTHER PROVISIONS OF TITLE 3 SHALL REMAIN IN FULL FORCE AND EFFECT.**

Introduced on first reading the \_\_\_\_\_ day of \_\_\_\_\_, 2021 and ordered published in pamphlet form.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_ 2021 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
C.B. McDaniel  
President of City Council

\_\_\_\_\_  
Wanda Winkelmann  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND TITLE 21 CHAPTER 4, CHAPTER 6, AND CHAPTER 10 OF THE ZONING AND DEVELOPMENT CODE REGARDING USE STANDARDS TO INCLUDE CERTAIN MARIJUANA BUSINESSES IN THE CITY OF GRAND JUNCTION WHILE REQUIRING SPECIFIC BUFFERING BETWEEN CERTAIN SCHOOLS, PARKS, AND REHABILITATION FACILITIES, REGULATIONS FOR SIGNAGE OF MARIJUANA BUSINESSES, AND DEFINITIONS FOR SUCH BUSINESSES.**

**RECITALS:**

The City desires to maintain effective regulations in its Zoning and Development Code (Title 21 of the Grand Junction Municipal Code) that encourage and require appropriate use of land throughout the City while taking into consideration the wants and desires of the citizens of Grand Junction.

Although Federal law criminalizes the use and possession of marijuana as marijuana is categorized as a Schedule 1 controlled substance under the Controlled Substance Act, on June 7, 2010, former Governor Ritter signed into law House Bill 10-1284 and Senate Bill 10-108 which, among other things, authorized the City to adopt an ordinance to license, regulate or prohibit the cultivation and/or sale of marijuana (C.R.S. 12-43.3-103(2)). The law also allowed a city to vote, either by a majority of the registered electors or a majority of the City Council, to prohibit the operation of medical marijuana centers, optional premises cultivation operations and medical marijuana infused products manufacturers.

At the time of House Bill 10-1284 and Senate Bill 10-108's passing, a moratorium was in effect in the City for the licensing, permitting and operation of marijuana businesses. The moratorium, which was initially declared in November 16, 2009 (through Ordinance 4437), was for a period of twelve months and applied to any person or entity applying to function, do business, or hold itself out as a medical marijuana dispensary in the City of Grand Junction, regardless of the person, entity, or zoning. On October 13, 2020, City Council adopted Ordinance 4446 which extended the moratorium to July 1, 2011.

At the April 5, 2011 election, the electorate voted in favor of prohibiting the operation of medical marijuana businesses and the amendment of the Grand Junction Municipal Code by adding a section that prohibits certain uses of marijuana (referred to as Measure A).

On November 6, 2012, Colorado Amendment 64 was passed by the voters, amending Article 18 of the Colorado Constitution by adding Section 16 which allows retail marijuana stores and made it legal for anyone 21 years or older to buy marijuana at such stores. In addition, Amendment 64 allows anyone over 21 years of age to legally possess and consume up to one ounce of marijuana. Amendment 64 does not change the Federal law; it still remains illegal under Federal law to produce and/or distribute marijuana.

On February 6, 2013, City Council approved Resolution 07-13 adopting marijuana policies for the City and restrictions for persons or entities from applying to function, do business, or hold itself out as a marijuana facility, business or operation of any sort in the City limits. Later that same year, City Council adopted Ordinance 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores. Ordinance 4599 also amended Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibit certain uses relating to marijuana.

In late 2015, the City, Mesa County and Colorado Mesa University, by and through the efforts of the Grand Junction Economic Partnership (GJEP), were successful in establishing the *Colorado Jumpstart* business development program. One business who was awarded the first *Jumpstart* incentive planned to develop a laboratory and deploy its advanced analytical processes for genetic research and its ability to mark/trace chemical properties of agricultural products, one of which was marijuana. In October 2016, City Council passed Ordinance 4722 which amended Ordinance 4599 and Section 21.04.010 of the Grand Junction Municipal Code to allow marijuana testing facilities in the City.

On January 20, 2021 the City Council approved Resolution 09-21, the adoption of which referred a ballot question to the regular municipal election on April 6, 2021 to repeal Referred Measure A contingent on and subject to voter approval of taxation of marijuana businesses. A majority of the votes cast at the election was in favor of repealing the moratorium on marijuana businesses and in favor of taxation of marijuana businesses.

City Council has decided to allow certain retail marijuana businesses within the City. City Council has requested that staff prepare an ordinance to repeal the prohibition of marijuana businesses from the Grand Junction Municipal Code and to include rules and regulations for licensing and operating retail marijuana businesses.

City staff and community members, including the Marijuana Working Group, have researched, reviewed, and discussed various approaches to taxation, permitting and regulation of retail marijuana within the City. Regulations for marijuana uses have been established at the state level with the adoption and implementation of the Colorado Marijuana Code in the Colorado Revised Statutes (C.R.S. 44-10-101, *et. seq.*). However, regulation of retail marijuana uses at the state level alone are not adequate to address the impacts on the City of retail marijuana, making it appropriate for the City to regulate the impacts of retail marijuana uses.

The City has a valid interest in regulating zoning and other impacts of marijuana businesses in a manner that is consistent with constitutional and statutory guidelines. The City desires to facilitate the provision of quality retail marijuana in a safe manner while protecting existing uses within the City. Regulation of the manner of operation and location of retail marijuana uses is necessary to protect the health, safety and welfare of both the public and the customers. The proposed ordinance is intended to allow certain



retail marijuana businesses that will have a minimal impact and where potential negative impacts are minimized.

This proposed ordinance amends the City's Code to permit marijuana businesses in the specific zone districts where general indoor retail sales are permitted and provides for buffering from specific land uses including parks and parkland, certain schools and specific rehabilitation facilities. This ordinance also includes regulations for signage and definitions for marijuana businesses.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of the proposed amendments.

After public notice and public hearing, the Grand Junction City Council finds that the amendments to allow certain retail marijuana businesses by and through the uses and the Use Table, are responsive to the community's desires and otherwise advance and protect the public health, safety and welfare of the City and its residents.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE FOLLOWING SECTIONS OF THE ZONING AND DEVELOPMENT CODE (TITLE 21 OF THE GRAND JUNCTION MUNICIPAL CODE) BE AMENDED AS FOLLOWS (new text additions underlined and deletions marked with strike-through notations):**

21.04.010 (d) Use table.

~~Marijuana related business, whether retail, commercial, industrial or agricultural, except marijuana testing facility(ies) are prohibited in all zone districts in accordance with Chapter 5.15 GJMC. Marijuana testing facility(ies) is (are) allowed in the zone districts shown.~~

~~Marijuana testing facilities shall be categorized as/under the "industrial services, contractors and trade shops, oil and gas support operations without hazardous materials" category of the use zone matrix as "research, testing, and laboratory facilities – indoors (including marijuana testing facilities)" as allowed uses in B-2, C-1, C-2, MU, BP, IO, I-1 and I-2 zone districts.~~

21.04.010 Use Table.

Key: A = Allowed, C = Conditional, Blank Cell = Not Permitted																								
Use Category	Principal Use	R-R	R-E	R-1	R-2	R-4	R-5	R-8	R-12	R-16	R-24	R-O	B-1	B-2	C-1	C-2	CSR	M-U	BP	I-O	I-1	I-2	M X-	Std.
Retail Sales and Service	Retail Marijuana Store												A	A**** *	A	A		A	A				A	Ch. 21.04.030(w)

\*The area of Main Street between 1<sup>st</sup> Street and 7<sup>th</sup> Street shall have no retail marijuana stores on the street level/ground floor of a building.

21.04.030 Use-specific standards.

(w) Retail Marijuana Stores

- (1) Applicability. These regulations apply to all Retail Marijuana Stores in the City in addition to the other provisions in the GJMC pertaining to marijuana stores, including but not limited to, GJMC Chapters 5.13 and 5.14.
- (2) Zoning. It is unlawful for a Retail Marijuana Store to operate in a building which contains a Dwelling Unit.
- (3) Buffering. No Retail Marijuana Stores shall be located:
  - a. Within 1000 feet of any private or public elementary, middle, junior high, high school or institution of higher learning.
  - b. Within 1000 feet of Colorado Mesa University (Main Campus) and Western Colorado Community College.
  - c. Within 500 feet of all public parks or undeveloped park lands as provided in the Parks, Recreation and Open Space Master Plan, as amended.
  - d. Within 500 feet of any services for prevention, treatment or recovery from substance use and mental health concerns, as licensed by the Colorado Department of Human Services, Office of Behavioral Health (OBH).
- (4) The distance described above shall be computed consistent with C.R.S. 44-10-311, as may be amended, by direct measurement from the nearest

property line of the land use for purposes stated in subsection (4) above to the nearest portion of the building or unit in which the retail marijuana is to be sold, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and traffic signals.

- (5) Signage and advertising. All signs and advertising for a Retail Marijuana Stores shall comply with all applicable provisions of the Colorado Marijuana Code, any regulations adopted pursuant thereto, the provisions of this Chapter and Chapter 6, and the City's ordinances and regulations regarding signs and advertising.

#### 21.06.070 Sign Regulation

##### (j) Marijuana Retail Store Signage and Advertising

- (1) No sign shall use the terms "pharmacy", "pharmacist", "pharmaceutical", "rx", or any other similar variation of such terms as its corporate, business, or "doing business as" name, so as to prevent a reasonable person from concluding such business is involved in the practice of pharmacy, as regulated by Pharmaceuticals and Pharmacists, C.R.S. Article 22 of Chapter 12. Additionally, no Retail Marijuana Stores may use any of the above terms or any similar variation thereof in any of its signs, placards, promotional, or advertising materials. Additionally, no signs that mimic or allude to pharmacy or medical related symbols, including but not limited to medical style crosses regardless of proportions or colors, shall be used or displayed in non-medical retail marijuana stores.
- (2) No sign shall include advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to persons under eighteen (18) years of age.
- (3) No Retail Marijuana Stores shall have more than two signs, one of which may be on the main entrance of the business with a maximum size of two square feet and one other sign to be located in or on the windows, roof or walls of the business, or on the premises, with a maximum size of 50 square feet in B-1 and B-2 zone districts and 100 square feet in all other districts. Any logos, symbols or other visual information on either of the two permissible signs shall count toward the respective size limits. All such signage shall also otherwise comply with this Chapter and any other applicable City laws and regulations regarding signs and advertising.

(4) No Retail Marijuana Stores shall advertise with sign-wavers or other natural persons standing in public within 1,000 feet of any public park, recreation center, childcare center, school or rehabilitation center. Sign-wavers or other natural persons standing in the public shall not be included within the number of signs allowed pursuant to subsection (3) above.

(5) Exceptions. The prohibitions set forth in subsections (1)-(4) above do not apply to:

- i. Any sign located on the same zone lot as a retail marijuana business which exists solely for the purpose of identifying the location of the retail marijuana business and which otherwise complies with this Code and any other applicable laws or regulations, which sign includes only the name and address and days and hours of operation of the business.
- ii. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the City or on the internet, which may include coupons.
- iii. Any non-consumable merchandise or accessories.
- iv. A booth at an adult event or job fair where the only items distributed are company or educational materials and no other items are distributed, shown or sold.
- v. Business cards within the business or handed directly to an individual who is over the age of 21.
- vi. Showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.
- vii. Company materials and educational materials distributed inside the marijuana business.
- viii. To political speech or any signage advocating the passage or defeat of a local or state ballot measure.

(6) Any violation of this Section shall be subject to Section .1.04.090 of the GJMC and may also be subject to administrative enforcement pursuant to Section 1.12 of the GJMC. Repeated and continuous failure to comply with the requirements of this Section shall be considered by the Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license.

## 21.10.020 Terms Defined

Marijuana testing facility(ies) is an entity licensed to analyze and certify safety and potency of marijuana.

Medical Marijuana Store is an entity licensed to sell medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the state constitution, but is not a primary caregiver.

Retail marijuana cultivation facility is an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumer.

Retail marijuana hospitality and sales business is a facility that cannot be mobile, that is licensed to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

Retail marijuana products manufacturing facility is an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana transporter business is an entity or person that is licensed to transport retail marijuana and retail marijuana products from one retail marijuana business to another retail marijuana business and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises but is not authorized to sell retail marijuana or retail marijuana products under any circumstances.

Retail marijuana store is an entity licensed to purchase marijuana from marijuana cultivation facilities and to sell marijuana to consumers and retail marijuana testing facilities that are licensed to analyze and certify the safety and potency of marijuana.

All other provisions of Title 21 Chapter 4, Chapter 6, and Chapter 10 shall remain in full force and effect.

Introduced on first reading the \_\_\_\_\_ day of \_\_\_\_\_, 2021 and ordered published in pamphlet form.

Adopted on second reading this \_\_\_\_ day of \_\_\_\_\_ 2021 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
Chuck McDaniel  
President of City Council

\_\_\_\_\_  
Wanda Winkelmann  
City Clerk

DRAFT

## **A Hybrid Merit/Lottery Selection Process for Marijuana Stores**

### **Potential Criteria and Structure**

Scoring of applications based on merit will require establishing a set of criteria for assessing merit. Merit may be thought of in two primary categories: general sufficiency and policy priorities. Sufficiency might include qualifying factors like financial ability, experience, adherence to state and local requirements, .... Policy priorities may vary widely, but this category of merit can be defined as reflecting the City's aims beyond the standard ability of a business to operate within the bounds of financial and legal obligations. Examples include local ownership, employment of women, minorities, or protected classes, or voluntary commitments to provide social impact reduction or other community benefit. Together, sufficiency and policy priorities would constitute a full list of criteria for assessing an applicant who wishes to obtain a license for operating a marijuana store.

There has been some interest expressed in combining a review of each application's merits with a lottery system, which necessitates some particular features in the structure of criteria and application review. The distinction between a fully merit-based assessment and such a hybrid system is that exact ranking is not relevant to a hybrid assessment; instead, a minimum score would be established based on the total possible points among the full list of criteria. Any application exceeding that baseline score would be entered into a lottery. However, it is also possible to weight a lottery based on exact scores. That is, multiple baselines could be established, wherein a certain range of total points (eg. 50-70 points) affords an applicant one entry into a lottery, whereas a higher range of points (eg. 71-90 points) affords two entries. A weighted lottery could also reflect certain policy priorities such as a qualifying operator (that has achieved the required number of points *and* is comprised of 100% local ownership be granted two entries into the lottery.

In either case, a hybrid approach to selecting operators of marijuana stores would begin with a set of merit-based criteria involving sufficiency and, optionally, policy priorities. Each criterion would be assigned a range of scores (such as 1-3 or 1-5) that might vary depending on the weight assigned to the factor associated with that criterion. For example, if financial soundness is deemed more important than experience, then a financial criterion may have a range of 1-5 points while an experience criterion may have a weight of 1-3 points. If a total possible range of points based on the total of 30 criteria is 30-100 points, the Council would then establish that baseline (or multiple thresholds) for entry into the lottery. Alternatively, instead of points being awarded criteria could be evaluated on a pass/fail basis so that all applicants that pass all criteria are entered into the lottery. Criteria that are considered baseline review criteria can also be considered mandatory, and if so it is not necessary that such criteria also benefit the applicant's overall score. Should a merit-based system be established, the pass/fail criteria is preferred by current city staff.

What follows is an example of language that may be used in an ordinance to establish a hybrid selection process, as well as a range of sample criteria based on criteria in other communities,

primarily in Colorado, Hawaii, California. If exact wording is adopted from another community's system, that community is noted with the relevant criterion. Additional criteria are also included that reflect priorities that have emerged locally, whether in public outreach, staff research, or by suggestion of a City Councilmember in public session.

### **Sample Ordinance**

#### **5.13.029 Application evaluation.**

(a) Upon receipt of a completed application from the City, the selection committee shall evaluate each application based on the general criteria listed below. Applications are reviewed on their own merits and not in comparison to other applications.

(b) The following criteria will be used to evaluate applications:

1. [Criteria Listing]

(c) The selection committee shall make its evaluations based on a multi-factor balancing test, considering the totality of the circumstances, with the overall goal of selecting those applications that provide the greatest benefit to the City and its inhabitants by offering and maintaining the safest environment, the best service, and the fewest negative impacts to the community.

(d) The selection committee shall issue a written report stating the determinations of the committee and a brief explanation of the basis thereof. This report shall be added to the application file.

(e) The selection committee shall, based upon its written report and upon the number of applications received and evaluated, determine those applications that have successfully met or exceeded the criteria required by this Chapter and therefore will go through the lottery process.

#### **5.13.030 Lottery.**

(a) The applications identified by the selection committee as meeting or exceeding the criteria required by this Chapter shall be entered into a lottery process.

(b) A public random lottery will be conducted from among the applications chosen by the selection committee to determine which applicants will be awarded the opportunity for approval of a license.

1. Public notice. The City shall publish notice of the public lottery.

2. Conduct of the lottery. The City will conduct a drawing from among the qualified applicants, in a public forum, to determine which applicants shall be awarded the opportunity to obtain a license. They will use a process by which the names of the applicants are shielded from view, and through which each qualified applicant has an equal chance of being selected.



3. The first business selected via the lottery has first priority for a retail marijuana business license with subsequent priority following numerical positions, i.e., first selected has first priority, second selected has next priority, and so forth. If proposed locations in subsequent applications selected via the lottery conflict with the state or local zoning laws and regulations, those applicants have the opportunity to find a different location within 60 days that complies with required zoning laws prior to the City opening the available license to those businesses who follow in priority. The City may extend this time for good cause.

4. The selected applicants must complete the process to be issued a license. If any applicant does not complete the process and there is an available license, the clerk will contact the applicants in the order of lottery selection to move through the post-lottery stages of the licensing process.

5. All applications accepted by the selection committee will remain active/available until all available licenses are issued.

6. After available licenses are issued, the process is closed and any application will be retained for file purpose only. Should a license be discontinued or not renewed for any purpose, the City will accept new applications on a first come-first serve basis.

## **Possible Criteria**

### **Sufficiency**

#### *Financial*

- General Financial Sufficiency - Proof of financial stability and access to financial resources, including but not limited to: legal sources of finances immediately available to begin operating a dispensary; a summary of financial statements in businesses previously or currently owned or operated by the applicant; a financial plan for operating a medical marijuana dispensary in Colorado; good credit history; and history of bankruptcy by the applicant or entities owned or operated by the applicant.
- Financial Plan - Financial plan and/or budget to start the business (based on the business plan and design concept included in the application), including items such as tenant improvements, employee costs, legal costs, consultant costs, initial inventory.
- Tax Record - Applicant has no previous record of failing to make timely reporting or remitting of their marijuana taxes and/or other business license taxes or any other payments required by their entitlements if operating in another jurisdiction.
- Pro-Forma - Applicant provides a valid and comprehensive pro-forma for at least three years of business operation.

#### *Record of Experience*

- Experience in Industry - The applicant's experience operating a licensed marijuana business in Colorado or any other state, including compliance with state and local laws, violations, or alleged violations thereof.
- Experience in Analogous Industry - The applicant's demonstrated ability to operate an effective and lawful analogous business.
- Experience in Regulated Industry - The applicant's ability to demonstrate, through a business plan, its ability to operate and develop the proposed establishment in a highly regulated industry.
- General Business Experience - Ability to operate a business, including but not limited to education, knowledge, and experience with: regulated industries; operating or working in a business; and creating and implementing a business plan, including a timeline for opening a business.
- Demonstrated Industry Knowledge - Overall knowledge of the cannabis industry (as demonstrated throughout the screening application), including industry best practices and state regulations.

#### *Non-Criminality*

- Non-Criminality of Owners - Applicant, principal officers, directors and owners have never had the following: felony convictions; drug-related misdemeanor convictions; or pending criminal charges of any type.
- Non-Criminality of Employees - Applicant certifies that the business will not hire a manager, employee or any person with a felony conviction in the last 10 years or a drug-related misdemeanor conviction in the last 5 years, or a drug related felony conviction ever.

#### *Operational*

- Marketing Plan - Quality and detail of the key aspects of the marketing plan that would be generated and incorporated into the business plan.
- Product Recall Response - Description of the comprehensive process for 24-hour minimum response time to cannabis product recall notifications.
- Standard Operating Procedures - Standard operating procedures include electronic tracking and storage of required records of sales, delivery manifests, and inventory.
- Employee Training - Quality of proposed employee training; for example training about, differences in products, potency of products, customer service, laws governing personal use.
- Quality of Facility - Quality of proposed exterior presence of the physical location, including the applicant's concept for the architecture, landscaping, signage, lighting, entry experience, relationship to the street and sidewalk, parking, and the overall sense of welcome and security.
- Security Plan - Quality of the anticipated security guard plan for the business; including, number of guards, hours, protocols, and day-to-day procedures/operations.
- Alarm System - Describe the plan for alarm systems and how they are professionally monitored and how all alarms are responded to by a private security company.
- Air Quality - Demonstration that air circulation does not impact the employees' health and welfare nor the surrounding businesses.

### *Adherence to State and Local Regulations*

- Site Compliance - Demonstrated control of a site that is in full compliance with the requirements of [Code Section].
- Underage Prevention - Sufficiency of plan to prevent underage persons from entering the premises.
- Theft Prevention - Sufficiency of plan to prevent theft or diversion of marijuana.
- Limited Access Areas - Sufficiency of plan to prevent unauthorized individuals from entering the limited access portion of the premises.
- Disposal Plan -Sufficiency of plan to dispose of any marijuana not sold.
- On-Site Consumption Prevention -Sufficiency of plan to prevent the consumption of marijuana on the premises.
- Complaint Resolution - Sufficiency of plan for handling complaints related to odor, noise, light, and vehicle and pedestrian traffic.
- Impact Mitigation - Sufficiency of plan for mitigating impacts to the neighborhood, foreseen or unforeseen, such as, but not limited to, odor, noise, light, and vehicle and pedestrian traffic.
- Conformity with Zoning - Conformity of the application to the zoning of the proposed location, as an initial matter and with the understanding that full land use review must be completed to obtain a license.
- Licensing History - No history on the part of any owner of having a business license revoked.
- Testing Procedures - Standard operating procedures include plans and procedures for how all cannabis products on the premises or held by the applicant have met the testing requirements as defined by the State.

### *Application Quality*

- Accuracy of Application - The degree of detail and completeness provided in the application and the extent to which the application includes false or misleading information.

## **Policy Priorities**

### *Ownership*

- Diversity of Ownership - Diversity of ownership of marijuana industry licenses or permits, including consideration of ownership of any active licenses or establishments located in the United States.
- Local Ownership - The extent to which the business will be a locally managed enterprise whose owners (at least XX%) reside within Grand Junction, as defined by Grand Junction City limits and or the following zip codes (XX XX XX). Applicants must show proof that at least XX% of the owners have been residents of Grand Junction for at least 2 years prior to XX date XX. Such proof shall consist of a utility bill with owners' name(s), a lease, a deed, or similar documentation).

- Social Equity in Ownership - Degree of ownership interest by individuals that are veterans, LGBT+, women, minority, and/or originating from communities disproportionately impacted by prior cannabis laws.

*Interests of Workers and Protected Classes*

- Employee Benefits - Community benefit including providing a living wage and employee benefits and compliance with local, state, and federal employee non-discrimination policies.
- Living Wage - Commitment to providing a “living wage” to facility staff and employees. Wage scale should be provided in writing for all levels of employment. “Living Wage” shall mean 150% of the minimum wage mandated by Colorado or Federal law, whichever is greater.
- Social Equity in Hiring - Quality and detail of plan to promote social equity in hiring (for example: seeking employees from, and advertising positions to, veterans, the LGBT+ community, women, and/or communities disproportionately impacted by prior cannabis laws).
- Non-Discrimination Plan - Plan to promote and ensure local, state, and federal employee non-discrimination policies.
- Other Social Equity Practices - Additional business practices, or characteristics demonstrating a focus on social equity (including by way of example, individuals from minority groups involved in the business or ownership).

*Social Impact Reduction*

- Impact Mitigation - The impact of the proposed establishment on the neighborhood surrounding the proposed location, the community as a whole, and the natural environment, and the applicant's commitment to take specific measures to mitigate such impacts.
- Anticipated Impact on Community - Additional information that demonstrates the ability to operate in a safe responsible manner in the city, including, without limitation, a review of the quality and thoroughness of application materials, connection to Grand Junction, Grand Junction citizen public comment, ability to serve Grand Junction, familiarity with the city, and innovative business models consistent with the Grand Junction community.
- Signage Plan - Plan for discretion or quality of signage associated with the business, on premises or elsewhere.
- Customer Education Plan - Detail and quality of plan for educating customers regarding cannabis products, including the potency and effects of products, as well as variety.

*Environmental Benefit*

- Sustainable Business Practices - Demonstration of environmentally sustainable operations, including, but not limited to, green building standards (such as LEED certification), packaging practices, and product transportation plans.
- Natural Product - Extent to which product offerings will be naturally produced, without the use of pesticides or, harmful or inorganic chemicals.
- Relationship to Cultivators with Natural Product Standards - Plan to purchase cannabis from cultivators and manufacturers with environmentally conscious practices (those that

adhere to, or exceed, local and state regulations and permitting requirements (and abstain from practices such as, chemical use, stream diversion, unpermitted grading/clear cutting, illegal dumping)). Applicant should highlight and provide a description of the producers; also, provide evidence of planned partnerships.

#### *Other Community Benefit*

- Owner Community Involvement - Record among owners and operators of community and neighborhood involvement (personal or in relation to other business operations).
- Community Benefit Plan - Plans for volunteer services, donations to local nonprofits, in-kind donations to community organizations, or similar.
- Neighborhood Compatibility - The compatibility of the proposed location with the surrounding properties, including aesthetic considerations.
- Convenience of Access to Residents - The convenience of the proposed location to the residents of the city, considering any synergies, redundancies, or conflicts posed by the proposed locations of other marijuana store applications.
- Contribution to Diverse Retail Options - The diversity of retail choices the applications would bring to the city.
- Other Unique Benefit - Any other unique benefits the application would present to the inhabitants of the city and any other factors that may be relevant.
- Non-Profit Status - Operation of the business by a registered not-for-profit entity (501(c)3).
- Community Engagement Plan - A Community Engagement Plan that includes work with local non-profits and other community groups (volunteer efforts, partnerships, etc.). Grand Junction non-profits (or those that serve Grand Junction) are preferred.
- Partnerships with Local Businesses - A Community Engagement Plan or Business Plan that includes partnerships with existing Grand Junction businesses (for example: the procurement of goods and services from local businesses).
- Alignment with City Mission and Values - Community Engagement Plan and Business Plan that actively incorporate the City of Grand Junction's mission statement and core values.
- Online Ordering System - Proposed use of an online ordering system and the detail, quality, visual appeal, and user friendliness of thereof.
- Discount Plan - Quality of discount program for low-income medical patients; including income brackets, discount provided, ease of program, and procedure.
- Support of Small Cultivators - Extent to which products will be purchased from small scale cannabis cultivators (cultivators of less than one-half acre in total (total includes all state licenses the cultivator receives)).

# Marijuana Regulation Proposed Timeline [REVISED]



## Motions Regarding Marijuana Business Regulations

- A. ZONING: The Council directs staff to: (VOTE 5-2)
  - 1. Draft regulations in which zoning regulations for marijuana stores reflect the zoning of general retail sales under the existing Land Use and Development Code. Zones where general retail sales are currently permitted are the C-1 (Light Commercial), C-2 (General Commercial), B-1 (Neighborhood Business), B-2 (Downtown Business), M-U (Mixed Use), MXG-3 (Mixed Use General), and MXOC (Mixed Use Opportunity Corridor) districts.
  - 2. Consider the preference of the Downtown Development Authority to develop additional restrictions for Main Street between 1st Street and 8th Street, including the prohibition of marijuana stores on the ground floor of buildings.
- B. BUFFERING: The Council directs staff to: (VOTE 5-2)
  - 3. Draft regulations based on the buffering approach identified as Alternative 4, which includes buffering from: Schools including CMU and WCCC (1000 feet); Regional and Neighborhood Parks (500 feet); and Rehabilitation Facilities (500 feet).
- C. NUMERICAL CAP: The Council directs staff to: (VOTE 4-3)
  - 4. Draft regulations to implement a cap-by-district approach.
  - 5. Develop and present to Council alternatives for district areas with the result being approximately 10 stores with the allotment in the districts reflecting anticipated demand.
- D. LICENSING PROCESS: The Council directs staff to: (VOTE 3-4)
  - 6. Draft regulations to implement a hybrid selection process
  - 7. Prepare a range of options for review criteria, reflective of examples throughout the state, known policy goals of the City Council, and criteria that reflect the pursuit of public benefit on the part of marijuana business operators.
  - 8. Develop a range of approaches that aligns the hybrid selection process with the limits on location and number described above.
- E. RATE OF TAXATION. The Council directs staff to: (VOTE 5-2)
  - 9. Draft amendments to the Municipal Tax Code that would reflect a 6% special marijuana sales and use tax rate.

**“Be the change that you wish to see in the world” - Mahatma Ghandi**

To: Grand Junction City Council  
From: Invest In GJ

The City of Grand Junction has a once in a generation opportunity to improve the health and economic status of our community. We have an opportunity to invest in the people of Grand Junction at a time when that is desperately needed.

On April 6<sup>th</sup>, 2021 the voters of Grand Junction decided that our community would join the growing cohort of cities that allow recreational sales of marijuana. And, Grand Junction residents have provided feedback on wanting a limited number of stores in limited locations. At the same time, referred measure 2A did not specifically dictate how marijuana sales and licenses would be governed. The next steps are up to you and the citizens of Grand Junction via your vision and leadership. Nobody has dictated that this must be done in Front Range fashion.

**Invest In GJ**, a new private organization, would like the Grand Junction City Council to think “outside the box”. The cannabis industry should not limit or guide our imagination and innovation.

Our organization is in the process of creating a private philanthropic business that would return all profits from marijuana sales back to the people via projects that address prioritized social determinants of health. Instead of ten lucky winners of a merit based license lottery, we have the opportunity to make the whole community a winner via a single philanthropic business approach.

In short, **Invest in GJ** is asking the Grand Junction City Council to seize a golden opportunity to create a sustainable source of funding to address health equity, education, housing, and other social determinants of health by allowing our organization to be the sole operator of 3-4 geographically situated marijuana stores in Grand Junction. Again, this would be a private philanthropic organization. With this arrangement, our license would dictate that all profits after expenses would be used on social determinants of health needs in our community. Similar to a foundation, a board of directors would guide this process. Our prices would be set on a Western Slope average for cannabis such that the price is regionally market driven.

We ask you to consider the benefits of this bold and innovative approach: 1) fewer stores as desired by the citizens 2) marked reduction in advertising – this product sells itself and more marketing only leads to higher use among our youth 3) alignment with GJPD and D51- if a specific cannabis product is deemed a problem by local law enforcement and/or the school district – we will work closely with those organizations to address the product and/or its sale in our community 4) Alignment with long term health and economic goals for our community 5) model for other communities that are trying to enhance social determinants of health in the face of strong and powerful commercial determinants of health. 6) GJ sets a new path, rather than following the Denver-Metro model, for cannabis sales.

The city council is looking for merit based applications. Look no further than **Invest In GJ**. Ask yourself several questions: “Why should we hand over the goose laying golden eggs to a tiny handful of owners? Why should we add another detrimental commercial determinant of health while failing to address unmet needs in our community – including substance abuse treatment? Why not do something different and innovative? Why not prioritize GJ over the cannabis industry? Why not?”



Dear Councilmembers:

Our Company's name is Prohibition Herb, and we will be applying for a license in Grand Junction. We are writing this letter to you and your staff to offer some insight that we have gathered from the other cities in which we are currently operating.

We would like to discuss the issue that covers the numerical cap and how it pertains to cap-by-district. This is a twofold issue combining district cap within the City and how that can impact purchasing or leasing buildings in the allowed zoning and buffer areas to sensitive use. The problem is structures can be tough to come by and even harder to make a purchase or lease with the current owner. Some operators who choose to purchase land or buildings have a clause in their agreement that states they will pay X-amount until they find out if they have been granted a license. The other side is those that are wanting to lease, the current owners can come under extreme scrutiny if they currently still have a mortgage and the bank finds out they are renting to a cannabis business.

Many operators have spent several hours developing a purchase agreement, working with the current owner to take over the property, make changes to the building and begin reaching out to local neighbors and other business owners. They have spent time and money developing floor plans and site plans to mirror how they expect to conduct business. The costs for equipment and materials have gone into the layout of the building and the way the operations will flow. There is a lot of time that goes into a single building, and in the event the operator would have to relocate, it will cause plenty of bottlenecks, not to mention a complete readjustment to their business model.

In the event your application process finds that many of the top scoring applications are in a single district, chances are you will encounter an issue with setbacks (between retail locations) and heavily saturated retailers in one area. This will cause the lower-ranked applicants to find sites elsewhere, which can cause a challenging scenario with the current building owners. We believe that the limit of retail locations should be within the city as a whole and not separated by districts.

The other is to discuss some of our barriers to entry that we have come across operating in the City of Durango. We would like to give you a little bit of our background and how it might pertain to the City of Grand Junction.

In 2017, after operating for seven years in Durango, we lost our retail location due to an option getting called on our lease. Durango had implemented a similar zoning buffer to the one that was voted on in your meeting on Wednesday. At the time there were no available locations for us to move to within the buffers. While working closely with the Durango City council and the planning department we resorted to sending letters and knocking on doors of any address that would work within said buffers. Finally, after looking for almost a year we where able to get a lease then purchase the one and only location that worked within Durango's buffers.

If the City of Durango had the additional zoning requirements of districting our relocation wouldn't have been possible and successful business model would have failed.

We humbly ask that the City of Grand Junction keep in mind these variables and proceed without any additional districting requirements.

Thank You,  
Wes Drobney  
Prohibition Herb  
Co-Found / General Manager

Additionally, I will be in Grand Junction this Monday and Tuesday and would greatly appreciate an opportunity to share my experiences and opinions, from 10 years in the industry, with you.