To access the Agenda and Backup Materials electronically, go to www.gjcity.org

GRAND JUNCTION CITY COUNCIL
MONDAY, NOVEMBER 1, 2021
WORKSHOP, 5:30 PM
CITY HALL AUDITORIUM AND VIRTUAL
250 N. 5TH STREET

1. **Discussion Topics**

    a. Cannabis Regulations

    b. Discussion of a Resolution Authorizing a Memorandum of Understanding Between the Colorado Attorney General and the City of Grand Junction for Distribution of Opioid Settlement Funds and Associated Forms to Initiate Settlements

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.”

Grand Junction City Council

Workshop Session

Item #1.a.

Meeting Date: November 1, 2021

Presented By: Tamra Allen, Community Development Director

Department: Community Development

Submitted By: Multi-Departmental Staff

Information

SUBJECT:

Cannabis Regulations

EXECUTIVE SUMMARY:

Referred measures 2A and 2B were passed on April 6, 2021 in the municipal election, providing Council an opportunity to consider establishing tax rates and regulations for cannabis businesses. This workshop is intended to provide possible criteria for entry into (sufficiency criteria), and weighting within (merit-based/policy priorities), the lottery.

BACKGROUND OR DETAILED INFORMATION:

Weighted Lottery for Cannabis Business Licenses
At the September 20, 2021 Council Workshop, the City Council addressed various aspects of retail cannabis regulations. The City Council confirmed direction on zoning, buffering, and taxation. Consensus was developed on a cap on cannabis stores, which is a maximum of ten (10) stores city-wide. As more than ten (10) applications for licenses are likely to be received, the numerical cap will require a system of selecting licenses.

The City Council has also discussed methods for awarding licenses, such as merit-based, lottery, or hybrid approaches. The City Council directed staff to refine a process for selecting applicants through a weighted lottery system. This system would utilize a random lottery of applications that are deemed sufficient, in which those applications that meet higher standards of review would benefit from improved odds. The Council must therefore consider two types of criteria: those that would constitute general sufficiency of an application and those that would denote additional merit and result in improved odds for a given application in the lottery (i.e. weighting).

The differences between sufficiency criteria and merit-based criteria are as follows.

Sufficiency criteria can be viewed as a combination of legal and technical criteria that complement the State's application and licensing process. Inability to meet a sufficiency criterion would result in exclusion from the lottery. Merit-based criteria can be viewed as priorities that ask applicants to go "above and beyond" for the purpose of achieving the Council's policy goals. Inability to meet these criteria would not disqualify an applicant but would also not increase an applicant's likelihood of selection. Thus, any criterion deemed critical or non-negotiable by the City Council is best suited as a sufficiency criterion, whereas any deemed to be only desirable is best suited as a merit-based criterion. In all criteria, and particularly in the case of merit-based evaluation for weighting, vital elements of each criterion include clarity of measurement and reasonable justification based in policy.

To facilitate discussion, staff has prepared a draft list of sufficiency criteria. Some criteria could be presented as sufficiency criteria or policy priority criteria, depending on whether they are viewed as critical or desirable. Not all criteria presented by staff may be included in a final scoring system, and additional criteria can be added, provided that they can be objectively measured and determined.

Commitments of a licensee that are made during the selection process (both sufficiency and merit-based) will be reviewed as part of the licensee's annual renewal process. If a business fails to achieve or maintain the required criteria (*e.g*. LEED certification within a year or commitment to community service/donation), at the time of license renewal, its license may be revoked.

Sufficiency Criteria (Entry into Lottery)

Sufficiency Criteria Examined by the State

Any business that seeks a local license for a cannabis business must also obtain a license from the State. The State applies a set of minimum standards that include "Findings of Suitability" for any major ownership interests, as well as a general license application with questions that respond to State criteria for licensing. Criteria addressed by the State include:

1) Good Moral Character — Any ownership interest of 10% or greater must demonstrate good moral character as defined by State statute. Such judgement is based on a variety of factors, including that the Applicant establishes that he or she is not currently subject to and has not discharged a sentence for a conviction of a felony in the three (3) years immediately preceding his or her application date. The following is an excerpt from State law describing what good moral character is:

I. A person who was convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction; except that, for a person applying to be a social equity licensee, a marijuana conviction shall not be the sole basis for license denial; or

II. A person qualifies as a social equity licensee if such person meets the following criteria, in addition to any criteria established by rule of the state licensing authority:

a. Is a Colorado resident;
b. Has not been the beneficial owner of a license subject to disciplinary or legal action from the state resulting in the revocation of a license issued pursuant to this article 10
c. Has demonstrated at least one of the following:

   i. The applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or designated as a disproportionate impacted area as defined by rule pursuant to section 44-10-203 (1)(j)
   ii. The applicant or the applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation;
   iii. The applicant's household income in the year prior to application did not exceed an amount determined by rule of the state licensing authority; and
   iv. The social equity licensee, or collectively one or more social equity licensees, holds at least fifty-one percent of the beneficial ownership of the regulated marijuana business license.

2) Fees – Applicant has paid all applicable fees for licensing.

3) Not a Food, Liquor, or Tobacco Establishment – The Applicant establishes that the premises he or she proposes to be licensed is not currently licensed as a retail food establishment or wholesale food registrant. The Applicant shall not provide, or be licensed to provide, sales of tobacco or liquor products at the premises.

4) Accuracy and Completeness of Application – Applicant certifies that all records provided to the state in the application for a license are complete and accurate, and no determination is made counter to this assertion.

5) History of Tax Payments – Applicant has filed all tax returns related to a medical or retail cannabis establishment and has paid any taxes, interest, or penalties due, as determined by final agency action, relating to a medical or retail cannabis establishments. Applicant is not delinquent in in the payment of any judgments, taxes, interest or penalties to the State Department of Revenue or US Internal Revenue Service.

6) At Least 21 Year of Age – Applicant is of sufficient age to legally operate a cannabis business, the minimum age for which is 21 years.

7) Adequate Security – Applicant must install a fully operational video surveillance and camera recording system, which includes but is not limited to, recording in digital format; storing recordings in a secure area that is only accessible to a Licensee's management staff; making system recordings accessible to any state or local law enforcement agency for law enforcement purposes; and surveillance of all entrances and exits to the facility, sale areas, limited access areas, and other areas as described in State statute.

Additional Sufficiency Criteria Identified by Staff

Local jurisdictions are authorized to adopt and enforce regulations for retail cannabis licenses that are at least as restrictive as the provisions of this article and any rule promulgated by the State, particularly Article 43.4 of the Colorado Revised Statutes. The following list includes sufficiency criteria identified by City staff as potentially relevant to the health, safety, and welfare of Grand Junction residents. Many of these correspond to State criteria above, wherein the difference is one of degree. For example, one may vary the number of years of prior business experience or non-criminality. Others respond specifically to local taxation and code compliance history.

1) Tax Compliance – Applicant demonstrates that payment of any judgments, taxes, interest or penalties to the City of Grand Junction are not delinquent.

2) Violations and Enforcement Actions – City records and applicant statements demonstrate that no ownership interest greater than 10% has a record of prior notices of violations, stop work orders, cease and desist orders or repetitive contact by the City's Code Enforcement officers or agencies.

3) Complaint Resolution – Applicant provides information in the form of a plan describing their proposed process for conflict and nuisance avoidance and resolution that will provide a high likelihood that complaints regarding the direct impacts from the business operations (e.g. odor, traffic, noise, etc.) will be avoided and/or resolved sufficiently and expediently.

Staff is not currently recommending general business experience as sufficiency criterion, however, should this be an important criterion, the following language is suggested:

General Business Experience - Applicant can demonstrate that owners and/or managers have a record of experience in operating a business, whether within the cannabis industry or other regulated industries, with a cumulative demonstrated experience of at least three (3) years.

Policy Priority Criteria (Weighting within Lottery)

The following Policy Priorities Criteria have been identified by City staff. City Council may weight each differently, or differently define, to achieve the policy goals of the City Council.

Policy Priorities Criteria Identified by Staff

1) Living Wage – Commitment to providing a “living wage” to all part-time and full-time staff and employees. Wage scale should be provided in writing for all levels of employment. “Living Wage” shall mean a minimum of 150% of the minimum wage mandated by Colorado or Federal law, whichever is greater. Conformance shall be a continuous obligation of the licensee and failure to comply shall be cause for revocation of a license, if issued.

2) Community Benefit – Applicant submits a plan that demonstrates meaningful and substantial commitment through financial donation, service or similar, to programs, services and organizations that address Social Determinants of Health as defined by the CDC, including economic stability, education access and quality, health care access and quality, neighborhood and built environment, and social and community context. Conformance with such plan shall be a continuous obligation of the licensee and failure to comply shall be cause for revocation of a license, if issued.

3) Sustainable Business Practices – Applicant demonstrates environmentally sustainable practices by obtaining at least a LEED Gold Certification of the building within one-year of licensing and/or demonstration that the business will utilize 100% renewable energy. Conformance with such certification, to the standards that existed at the time of the certification, shall be a continuous obligation of the licensee and failure to comply shall be cause for revocation of a license, if issued.

Staff is not currently recommending Local Ownership as a policy priority criterion, however, should this be an important criterion, the following language is suggested:

Local Ownership – The extent to which the business will be a locally owned and the factors that demonstrate that no less than 50% of the business will be locally owned. Those factors may include but are not limited to ownership of property, investment in other local business(es) and being a legal resident of and domiciled in Grand Junction, as defined by Grand Junction City limits and/or the following zip codes: 81501; 81503; 81504; 81505; 81506; 81507. Applicants must demonstrate by production of the businesses organizational documents, and maintain during the term of the license if issued, that at least 50% of the officers of a corporation, members of a limited liability company, or partners of a partnership satisfy these local ownership standards for at least three years prior to the date of application.

Approach to Weighting

Once the Council determines which criteria should be included, a decision must be made on whether any criteria are more important than others, and to assign weight to those criteria. A further determination to be made is the degree of weighting that would result from an applicant responding positively to some or all policy priority criteria. The degree of weighting would also require clarity of measurement. If the assumption is that any application meeting sufficiency criteria would be entered into the lottery with standard odds, then it follows that subsequent thresholds need to be established for the degree of merit that results in improved odds. There are numerous possible approaches to weighting and no apparent industry standard. For example, if a score of 0 out of 10 points on policy priority criteria results in standard odds, a score of 4 or greater out of 10 could result in doubled odds, and a score of 8 or greater could result in tripled odds. Alternatively, an applicant could receive a 10% increase in their odds of selection for every policy priority criterion that they meet. These are just two possibilities within a wide array of possible approaches to weighting in the lottery. Still further, criteria need not be pass/fail, but could be scored on a scale of 0 to 3 or similar, provided that clear guidance is given on the manner of scoring.

Because a specific approach to weighting can be developed to respond to the relative importance of the criteria, the Council may be best served by making a general assessment on that question. If certain criteria are more important than others, or if all are seen as equally important, then weighting can be designed to suit. For discussion purposes, and as an example of possible scoring/weighting of criteria, a sample "Score Sheet" is shown below.

Sample: Cannabis Store Score Sheet					
		Applicant #1	Applicant #2	Applicant #3	Applicant #4
Sufficiency					
	Tax Compliance	✓	✓	✓	✓
	Violations & Enforcement	✓	✓		✓
	Complaint Resolution	✓	✓		✓
	Pass/Fail Pass = 1 Ticket	**Pass**	**Pass**	**Fail**	**Pass**
Policy Priorities					
	Living Wage +2		✓		
	Community Benefit +4	✓			
	Sustainable Practices +1	✓			
	Weighted Priority = +X	**+5**	**+ 2**		**+ 0**
	Total Tickets in Lottery	**6 Tickets**	**3 Tickets**	**0 Ticket**	**1 Ticket**

Applicant #1 and #2 would earn additional tickets by meeting various policy priorities which would greatly increase their odds of being selected to operate a store in Grand Junction.

At today's minimum wage of $12.56, a "Living Wage" would equate to $18.84. For a full-time employee this would be $39.187 per year.

<u>FISCAL IMPACT:</u>

N/A

SUGGESTED ACTION:

Staff recommends a City Council discussion and possible direction to staff regarding sufficiency, merit-based (policy priorities) criteria and associated weighting for the purposes of selection via lottery.

Attachments

1. Public Comment - Rob Holmes RootsRX 10.12.2021
2. Public Comment - Lauren Maytin 09.27.2021
3. Public Comment - Cindy Sovine 10.07.2021
4. Public Comment - MIG Proposed Licensing Guidelines GJ
5. Public Comment - Renee Grossman 11.1.21
6. Public Comment - Native Roots Cannabis Co. 11.1.21
7. Public Comment - Samantha Walsh 11.1.21

Grand Junction has an enormous opportunity in issuing cannabis licenses for dispensaries. Having followed this process through pre-referendum, the marijuana working group held by the Community Development staff, in person meetings with the Community Development staff, attending all the council meetings and workshops - I believe there is an alternative solution to be considered for Grand Junction to address many issues raised by survey, public comment and Council. The following proposal addresses: public safety, past license holders affected by the City's decision to revoke licenses, social equity, funding for City initiatives and a fair and equitable licensing process.

4 licenses to be awarded to social equity and/or entities that had their license revoked by the city of Grand Junction.

- Applicants will receive a 250,000 forgivable loan if they meet all terms
- These licenses cannot be sold for a minimum of three years (prevents acting as a beard for non-qualifying applicants).
- Ownership must be 100% owned by the applicant category
- Or: a minimum amount of not only ownership but net revenues – want to prevent partnering operators creating structures to advantage themselves. We have seen this before where the class seeking assistance gets 51% ownership but no voting rights and negligible revenues.

8 licenses for experienced qualified applicants.
Below represents some suggested criteria for qualification in addition to whatever criteria the city of Grand Junction deems necessary for its application process.

- Have owned and operated dispensaries in the State of Colorado for at least 3 years
- Have no felonies
- Have a lease on a property in a GJ approved Zone C-1 B-1 – wherever deemed appropriate
- Have filled out and submitted to GJ a complete state application
- Each applicants places $500,000 in cash in escrow. (Proof of funds is not enough to prove ability to perform). This will be released to the city as the initial licensing fee for an awarded license and refunded to those not awarded. City will have 60 days to review and award applications – or faster as the city will be holding a sizeable deposit a quick turnaround be appreciated by the applicants.
- If there were more than 8 qualified applicants - have everyone bid a minimum of $500,000 and the top highest 8 bids are awarded the license and may purchase at the lowest bid of the top 8's bids. For example if bids ranged from $625k – $925k – everyone would buy at $625k. This process will generate be a minimum of $500,000 per license for the city but most likely higher.
- If there are fewer than 8 applicants, the city can hold the license until a qualified applicant applies. (Very low likelihood).
- License must be operating within one year of award date.
- Awarded licensees must hold license for a minimum of three years.

Total of 12 licenses issued with a 3-year moratorium on additional licenses for Grand Junction.

This format would create a minimum of $4mm for the city of which $1mm can be segregated for social equity and other privileged groups. The city would have $3mm to dedicate to whatever give back programs they chose to fund. A second component to be considered is public safety. In all jurisdictions where we have stores it took some time to convert people who were loyal to the black market. While there are nearby legal jurisdiction options for GJ residents -they are still a bit of a drive. Legalizing cannabis in Grand Junction will not only capture revenues going to surrounding townships but it will begin to eradicate the black market and increase the GJ revenue base. In relatively short order consumers will chose product that has been tested for heavy metals, harmful pesticides, mold mildew and yeast with measured THC levels over product that was grown in a closet or a basement with no regulations. The legal markets also have a vast variety of products to offer the consumer that simply are not available in the black market. Having experienced cannabis retailers will accelerate this process. This process allows for choosing experienced operators to maximize tax collection, preserve public safety while simultaneously funding social equity and City initiatives.

Thank you for your consideration – I would be happy to discuss,

Rob Holmes
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LAW OFFICES OF

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September 27, 2021

Grand Junction City Council:

My name is Lauren Maytin. I am a cannabis attorney, the longest sitting board member of CONORML, and I have been an active participant in Cannabis rule making for governmental authorities for over 15 years. As you may know, I have been watching your governmental processes regarding the lifting of Grand Junction's marijuana moratorium and the resulting discussions concerning cannabis rules, regulations and ordinances for the city of Grand Junction. I have also submitted comments at meetings wherein you have taken public comment.

It is commendable that you would like to give opportunity to those that live and reside in Grand Junction and Mesa County: a local preference. It is appreciated that you want entrepreneurs in your community who focus on social equity, social impact, environmental benefits and community reinvestment issues and concerns. All agree that someone already embedded in the community is a desirable type of candidate to you and your constituents. As this process unfolds, I think you should be made aware of circumstances that are taking place on the streets as a result of the public discussions and published materials from the Grand Junction City Council.

Today, Grand Junction and Mesa County Residents who want to enter the re-emerging marijuana market are attempting to secure locations for storefronts. As the local resident is about to strike a reasonable deal for a premises, securing a lease suitable for a business application, an out-of-city and out-of-county marijuana entrepreneur offers the landlord double and sometimes triple the rent to take that property's lease and location away from the local.

If, in the selection process, you permit applications for every secured location, you are encouraging out-of-city and out-of-county Applicants that can and will secure multiple locations under one or multiple business names to increase their chances and Grand Junction market share. Giving the same owner or business multiple balls or multiple weighted balls for something other than merit is unwise. The bare minimum selection process combined with an inappropriately weighted lottery does not support local opportunity or local entrepreneurship.

Please do not prevent and discourage local residents from applying; instead, we ask that you encourage the local. By limiting the number of storefronts an out of city or out of county resident may use to apply for licenses is one way to accomplish this goal of local preference, giving more weight to the merit based local entrepreneur.

Regards,

Lauren Maytin

From: Cindy Sovine <cindy@sovineconsulting.com>
Sent: Thursday, October 7, 2021 9:04 AM
To: Council <council@gjcity.org>
Cc: Cindy Sovine <cindy@sovineconsulting.com>
Subject: Sample Merit System (RFP) for Selecting Marijuana Operators

** - EXTERNAL SENDER. Only open links and attachments from known senders. DO NOT provide sensitive information. Check email for threats per risk training. - **

Grand Junction City Council,

Good morning! Thank you for the opportunity to submit these public comments. I have had the pleasure of speaking with a few of you directly in regard to questions you are getting from various businesses about your selection process. From what I can tell, you are being lobbied to go with a merit-based system and in order to build the appetite to do so, the suggestion is being made to phase in the licenses by starting with 3 or 4 and expanding down the road.

I would like to address these two issues separately. I thank you in advance for your consideration.

1. **Merit Vs Lotter (or Hybrid)** – I am a firm believer in a full Merit based system. This is an RFP process similar to any other process a vendor you go through when seeking to do business in your City. As a professional lobbyist who has done procurement work for international companies like HP, Xerox, and Microsoft seeking to do business with local governments in Colorado, I can tell you this is how they do it so they are not constantly in legal battles over every new opportunity. It really is this simple. To that end please find attached a sample Merit System for your consideration. You are currently discussing a hybrid system. That means you are going through the process of making applicants check all your boxes and then be sent to a randomized system for final applicants. Here are the reasons why in my experience you are opening yourselves up to lawsuits beyond what you may realize:
    - The prevailing thinking seems to be that if you end with a randomized approach it limits your liability of being sued. **THIS IS RARELY THE CASE**. In fact, your current process allows for an unlimited opportunity to cure if you don't even have a legitimate property and you are selected. In my experience, this leads to dormant licenses that give grounds for the other operators who did play by your rules sue you for ignoring your own process. You have several areas in your current draft that have what I call "danger zones" where vague language creates opportunity for legal recourse. If you are going to proceed with this course then I would recommend you shore up your property provisions in the draft regulations.
    - You are going through the very large headache of doing all the work for a merit-based process anyway and then removing your ability to select your operating partners.
    - Do you randomize the selection of Alcohol licenses or any other regulated licensed businesses? Imagine the ramifications for those business owners and the unrealized investments they would have to make if you did? Would it impact the kind of operators that wanted to start businesses in your City?
    - If there is one piece of advice I could leave you it is that as a local government representatives who are accountable to your constituents for these decisions, look at

this from a harm reduction standpoint. You are better off taking heat for intentionally and methodically selecting who you are allowing to operate in your City than stuck dealing with the consequences of rolling the dice.

2. **Limiting Licenses Early On with Future Expansion** - Many of the interested businesses you are hearing from are wanting to see you go in the direction of the above selection process and in the process of lobbying you to do so are trying to trade off the total number of licenses in return. If you limit to 3 or 4 with the intention of adding more later than you are creating issues for yourself that you should at least know about to make an informed decision:
   - Grand Junction is a limited Market. Meaning there is a limit to how much marijuana you will actually sell regardless of the number of stores you allow to open. Lets say for arguments sake it's a $10 Million in sales per year market. If you start off with four stores splitting that $10 Million a year market than every store you let in after will be removing business from a well established business.
   - You are taking an already divided pie and making it smaller for everyone producing revenue for you. For this reason it becomes very challenging to add stores down the road because you then have the existing industry fighting you to keep their share of the pie.
   - If you want 10 licenses, grant 10 licenses. As you can see from the above selection process notes it's an arduous process for everyone involved…applicants, staff, council…WHY DO IT TWICE and double your liability for recourse??

Thank you very much for your consideration and the opportunity to provide you this unsolicited advice :)

I would be grateful for the chance to answer any questions you may have. I hope you have a wonderful day.

Cindy

Cindy Sovine
720-290-5327
Sovine Consulting

CITY OF GRAND JUNCTION

PRE-REQUISITES TO ENTERING MERIT SYSTEM[1]

Site compliance

Proposed Licensed Premises complies with Municipal Code (zoning, setbacks)

Applicant has "lawful possession of Licensed Premises through lease or ownership

APPLICANT REPRESENTATIONS

Non-criminality of owners

Non-criminality of employees

No on-site compliance

Licensing history

Accuracy of application

SAMPLE MERIT SYSTEM

SUFFICIENCY CRITERIA	Number of Points Min	Max	
Financial considerations			
Proof of resources (min. $400,000?)	0	2	2 = has the resources to open quickly; 0 = does not
Financial plan and/or budget	0	2	2 = has a realistic budget to open quickly; 0 = does not
Tax record - history of tax compliance	0	1	1 = no history of non-payment
Pro forma financial projections	0	2	2 = has realistic projections
Experience operating a licensed marijuana business			
4+ years in CO	0	4	4 = has four or more years of experience
2-3 years in CO	0	3	3 = has 2-4 years of experience
1-2 years in CO	0	2	2 = has 1-2 years of experience; 0 for less than 1 year
Outside CO	0	1	1 = has experience outside of Colorado
Other relevant experience			
Experience in regulated industries	0	1	1 = has experience; 0 = no experience
General business experience	0	1	1 = has experience; 0 = no experience
Demonstrated industry knowledge	0	1	1 = has experience; 0 = no experience
Operational considerations			
Busness plan	0	4	More points for more thorough business plan
SOPs	0	2	More points for more thorough SOPs
Quality of facility & location	0	2	More points for more attractive location & facility
Employee training plan	0	1	1 = has plan; 0 = no plan
Security & surveillance plan	0	1	1 = has plan; 0 = no plan
Odor mitigation plan	0	1	1 = has plan; 0 = no plan
Theft mitigation plan	0	1	1 = has plan; 0 = no plan
Underage prevention plan	0	1	1 = has plan; 0 = no plan
POLICY PRIORITIES			
Ownership			
Diversity of ownership (51% minority, women, LGBTQ+, veterans, or social equity owned)	0	2	2 = diversity owned; 0 = not
Local ownership (51% 2-year GJT resident)	0	2	2 = local owned; 0 = not
Interests of Workers and Protected Classes			
Living wage	0	1	1 = offers living wage; 0 = does not
Offers employee benefits	0	1	1 = offers employee benefits; 0 = does not
Hiring practices - diversity, social equity	0	1	1 = hiring plan includes focus on diversity; 0 = does not

Social Impact Reduction [2]			
Impact mitigation/neighborhood compatibility	0	2	2 = store/location compatible with neighborhood; 0 = not
Convenience of access/traffic impact	0	1	1 = convenient/minimal traffic impact; 0 = not
Customer education plan	0	1	1 = has plan; 0 = no plan
Environmental Benefit			
Sustainable business practices[3]	0	1	1 = has demonstrated sustainable practices; 0 = has not
Natural product standards[4]	0	1	1 = has demonstrated commitment to organics; 0 = has not
Community Benefit			
Community engagement plan[5] that demonstrates	0	4	More points for greater demonstration
TOTAL AVAILABLE POINTS	**0**	**50**	

WEIGHTED LOTTERY

Number of points applicant receives in merit system	**# Balls**
0-19	1
20-29	2
30-39	3
40+	4

(1) Failure to adhere to any of the above disqualifies the application.
(2) Did not include sign issues given historic litigation over sign content.
(3) Product packaging, labeling and transport dictated by the State Code; sustainability is limited with retail stores.
(4) Demostrated commitment or history of selling organically-cultivated bud.
(5) Community engagement plan that demonstrates community involvement in jurisdictions in which the company or owner operates and how well that aligns with the City mission and values.

Tamra Allen

From: comdev
Sent: Thursday, October 28, 2021 4:09 PM
To: Tamra Allen; Jace Hochwalt
Subject: FW: Marijuana Regulation
Attachments: MIG State of Colorado Cannabis GJ.pdf; Proposed Licensing Guidelines GJ.docx; 2019 Regulated Marijuana Market Update Report Final.pdf

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From: Truman Bradley <truman@marijuanaindustrygroup.org>
Sent: Thursday, October 28, 2021 15:40
To: Council <council@gjcity.org>; citymanager <citymanager@gjcity.org>; John Shaver <johns@gjcity.org>; comdev <comdev@gjcity.org>
Subject: Marijuana Regulation

Good afternoon Council Members, Attorney Shaver, and Manager Caton,

My name is Truman Bradley. I serve as the Executive Director of the Marijuana Industry Group (MIG), the trade association for licensed Colorado cannabis businesses. MIG partners with lawmakers, regulators, community groups, and stakeholders to make sure that Colorado continues to be thoughtful and safe as we regulate marijuana. *Thank you for your diligence and conviction as you create a marijuana regulatory model that is right for Grand Junction*. As you prepare for your workshop on Monday I'm submitting a few documents for your review. The first is a short overview of the state of Colorado cannabis regulation today. The second, and perhaps most important are some proposed guidelines for your review as you establish your regulatory framework.

I have also included some links that may be helpful on youth use, the state's social equity program, a report on the impacts of legalization in Colorado, as lastly, some info on the legal cannabis market in Colorado.

I'm planning to attend the study session along with several MIG members and would be happy to answer any questions you may have. Thank you again,
Truman

-
- MIG State of Colorado Cannabis (attached)
- MIG Proposed Licensing Guidelines (attached)
- Healthy Kids Dashboard
- MED Social Equity Website
- Impacts of Marijuana Legalization in Colorado
    - Article here
    - Full 188 page report here
- 2019 Regulated Marijuana Market Report attached

Truman Bradley
Executive Director

(303) 588-2297
Truman@MarijuanaIndustryGroup.org

Proposed Licensing Guidelines for Cities Legalizing Marijuana

The Marijuana Industry Group (MIG) commends Grand Junction for taking steps to legalize marijuana in your community. As the oldest and largest trade association for licensed cannabis businesses in Colorado, MIG serves as a resource for lawmakers, regulators, and municipalities as they implement a safe, successful, and fair regulatory framework for marijuana sales. After over 10 years working with local authorities in Colorado cannabis, MIG offers the following recommendations for your consideration.

GENERAL CONSIDERATIONS

1. Align your program with Colorado's robust state regulatory framework.
    a. The Marijuana Enforcement Division (MED) has created over 450 pages of regulations to ensure public safety in compliance. These rules govern everything from product testing and labeling, transfers between licenses, and qualifications and vetting of potential owners.
    b. Continuity with the state's regulatory framework results in ease of operations for both businesses and licensing agents at the municipal level.
        i. For example, the MED has a robust licensing and vetting process for owners and employees. MIG suggests relying on the state to determine suitability in regards to background checks. In fact, in 2021, the City of Boulder voted to reduce city imposed licensing requirements on owners and key employees due to the significant hours required by city staff.
    c. The more that cities deviate from state rules, the more resources they expend on regulation at the local level. Deviation also results in expenses for the businesses.
        i. For example, a recent change in ownership requirements by the legislature delayed the sale of a business by over a year while municipalities updated their codes to allow for publicly traded companies. Making these changes cost the time of city managers, city attorneys, and council members, all during the pandemic when staff and elected officials had more important priorities.
2. Use municipal powers to regulate time, place, and manner of cannabis operations in a way that is right for your community.
    a. <u>Time</u>: The state allows communities to set hours of operation. We suggest mirroring those of the state: 8 am-midnight.
    b. <u>Place:</u>
        i. Limiting licensure: Zoning and setbacks should be implemented to determine the number of stores in the community, (instead of using artificial license caps). Imposing artificial license caps prevents local businesses from growing as the city evolves and changes over time. Just as with liquor stores and other types of

business, the market will adequately determine the number of appropriate businesses to serve the needs of the community.

ii. Buffers/setbacks: Marijuana store locations should have the same setback requirements as liquor stores. Additional buffers (e.g. away from main roads, neighborhoods, parks, etc) should not be imposed because they artificially restrict where businesses can successfully serve the community and they negatively impact tax revenue. Once the below requirements have been met, local governments should not further restrict the location of cannabis businesses.

    1. Retail/Medical stores
        a. Marijuana stores should be allowed in all commercial zones with the following restrictions. MIG suggests:
            i. No store shall be located within one thousand feet of a school (including the principal campus of a college, university, or seminary); and no more than 500 feet of an alcohol or drug treatment facility.
            ii. These buffers should be measured using pedestrian access (e.g. crossing at designated crosswalks).
    2. Cultivation and Manufacturing
        a. Marijuana cultivation and manufacturing should be restricted to industrial and agricultural areas to account for odor control.

c. Manner: To ensure a stable regulatory program, a number of decisions should be made at the outset of regulation.

i. Taxation – will there be a special tax on cannabis, what will it fund, and what rate is required to fund community needs?

    1. Tax rate: MIG encourages municipalities to add a sales tax of no more than 5% so as to remain competitive with surrounding towns. Rates higher than 5% may encourage residents to shop the illicit market.

ii. Delivery – is cannabis delivery right for your community? Delivery has not been profitable for any business type when it is not part of the initial calculation for facility build-out and staffing. Deciding if delivery is right for your community should be determined at the outset of regulation.

iii. Hospitality – These license types allow for the consumption of cannabis in regulated "public" spaces such as consumption lounges or tour buses. Hospitality license holders cannot also hold a liquor license pursuant to state law. Alcohol-free hotels, coffee shops, cannabis specific tourist buses, restaurants or entertainment venues that don't serve alcohol could apply for this type of license if a municipality allows their operation.

iv. Social equity – Any community that has or is developing a municipality-wide social equity plan should include cannabis operations in that plan. The legislature created a license class for individuals negatively impacted by law enforcement actions during the drug war. If social equity is a policy priority in a municipality, integration of social equity cannabis licenses should be a part of the policy consideration for marijuana licenses in the community. Examples include waiving large financial requirements and/or skipping any required past cannabis business experience in licensing.

SPECIAL CONSIDERATIONS

1. <u>If a license cap is inevitable:</u> We strongly encourage communities to avoid a selection process that includes a license cap. However, if a cap is unavoidable, MIG recommends a merit-based approach to make the license awarding process transparent, fair, and objective. Processes that use a merit-based application ensure that a community can identify the types of marijuana businesses that the community desires. In order to achieve a fair balance of community desires including public safety, maximizing tax revenue, and ensuring that business operators are compliant and successful, MIG recommends that Grand Junction use an independently reviewed, merit based approach to license awards.
    a. <u>What to include in a merit based process.</u> Several considerations can be implemented in order to reduce the risk of legal challenges and make a cost-effective process for the city:
        i. Specific scoring criteria that are clear, easy to understand and to score, (e.g. Aurora);
        ii. Limit number of winning applicants to be legitimately one store per owner/ownership group/operator, etc (i.e no Broomfield loopholes) for round 1 of applications. If applicants have more than one location available to them at time of application, then allow the winning applicant to choose their best location for Round 1.
            1. In the unlikely event that there are fewer than 10 successful applicants, the city may award multiple licenses to one commonly owned group (to be distributed via a tiebreaker lottery).
        iii. Strong findings of suitability and financial ability to apply;
        iv. Require location possession via a deed, lease or contract;
        v. Application fees that cover the cost of hiring a competent independent scoring company, or multiple and using the average;
            1. Independent scoring companies should not have conflicts of interest.
        vi. Page limits on applications to prohibit redundancies in responses;
        vii. Require winning applicants to move forward expeditiously, finish their buildout, and start operating and generating tax revenue.
        viii. Traffic control: For municipalities that opt for a cap on the number of licenses, applicants should work with the community on traffic control plans for a location as part of their license application.
        ix. Community engagement plans: Unlike any other business a municipality may license, marijuana businesses experience heavy federal tax burdens that don't allow for the deduction of retail business expenses. This includes employees, benefits, property, or any other deduction that makes other businesses profitable, including the ability to deduct charitable contributions. Reputable cannabis businesses take community engagement very seriously. Plans for

engaging in “good neighbor” policies, sponsorship of community events, and participation in meeting the needs of the community through charitable contributions, where appropriate, should be encouraged by municipal policy and the use of community engagement plans as part of any merit-based licensing system.

x. 30 days prior to awarding the winning licenses, the City should publish scoring results and make [redacted] scored documents available for review by the applicants and have a chance to request an appeal if inaccuracies are found.

2. <u>In the event of a tie</u>: If the number of top-scoring applicants exceeds the number of available locations or (less desirable) exceeds the limit on the number of available licenses, MIG recommends awarding the licenses in order of independently reviewed scoring, and then holding a lottery for the last remaining applicants who have identical scores (i.e. the applicants who are tied for the last available license). This approach maintains the benefits of a merit-based application process and provides a fair tie-breaker in the form of a lottery.
    a. Applicants who lost in the lottery should have a Right of First Refusal for the next round of licensing.
3. <u>Avoid “free-for-all” lotteries</u> (i.e. no criteria for applicants). In MIG’s experience, an open lottery with no screening results in an overwhelming number of applications from operators with no experience and an immediate resale (flipping) of licenses. This results in the loss of tax revenue for the city as the lottery applicants have no tangible commitment to get a store running.

Thank you very much for your consideration. Please don’t hesitate to reach out with any questions,

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Overview of Licensed Cannabis in Colorado

Truman Bradley, Executive Director

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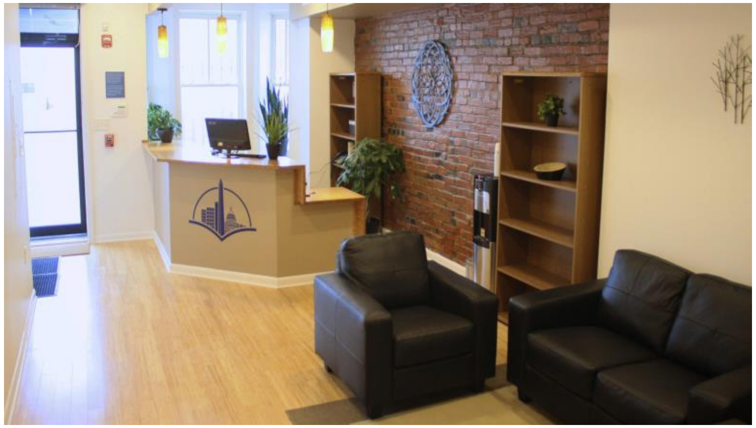
1

Retail Cannabis



- Medical Marijuana first legalized in CO in year 2000
- In 2013, CO became the first state to legalize Adult Use Cannabis
- Dual Licensure (State and Local)

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COLORADO'S REGULATED MARIJUANA MODELS

	Medical	Adult Use (Rec)
State (MED) & Local licensing	✔	✔
Taxed & regulated w/ cultivation limits/controls	✔	✔
CDPHE & local Environmental Health oversight	✔	✔
Dept. of Agriculture oversight; pesticide restrictions, OSHA conformance	✔	✔
Owner & Employee background checks	✔	✔
Seed-to-sale product tracking via METRC closed loop system	✔ Vertically integrated	✔
Packaging & labeling requirements; advertising restrictions	✔	✔
Product testing through state-approved labs	Potency, microbials, residual solvents, homogeneity pesticides, heavy metals	Potency, microbials, residual solvents, homogeneity pesticides, heavy metals
ID verifications prior to purchase w/ purchase limits	Colorado medical registry patients	21+
Cannot sell to minors	Exception: Children w/ medical necessity	✔
Cannot consume at Point of Purchase	✔	✔
Permits home cultivation	Caregivers (6+ plants)	Colorado residents 21+ (6 plants)

DIFFERENCE BETWEEN LICENSED & NON-LICENSED CANNABIS MARKETS

Licensed		Non-Licensed
REGULATED = SAFE ACCESS		UNREGULATED = UNSAFE ACCESS
STATE & LOCAL LICENSES		NO LICENSING STRUCTURE
TAXED		UNTAXED
ENFORCED BY DOR (MED), DORA, AG, CDPHE (& LOCALS)	**Vs.**	AMBIGUOUS ENFORCMENT
EMPLOYEE BACKGROUND CHECKS		NO BACKGROUND CHECKS
SAFETY REQUIREMENTS FOR TESTING, PACKAGING		NO MANDATORY TRACKING OR TESTING
CLOSED LOOP SYSTEM (SEED TO SALE TRACKING)		NO CLOSED LOOP SYSTEM
		NO SAFETY PROVISIONS
SECURITY REQUIREMENTS		NO SECURITY REQUIREMENTS

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A Quick Look Statewide

LICENSE TYPE	COLORADO ADULT USE	COLORADO MEDICAL	COLORADO TOTAL
MMC/RMC	590	433	1,023
Cultivation	693	454	1,147
MIP	281	215	496
Testing	11	10	21
Total	1,575	1,112	2687

Source: Colorado Department of Revenue: Marijuana Enforcement Sept. 2020

COLORADO'S CANNABIS INDUSTRY HAS SUPPORTED & PROMOTED SENSIBLE REGULATIONS FOR CONSUMER SAFETY

- Multiple ID verification at dispensaries
- Child resistant packaging
- Active THC serving size
- "Good to Know" campaign
- "Don't Drive High" campaign
- Responsible consumption guides free of charge
- Responsible Vendor self-regulation
- HB -21-1317

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Crime Does Not Increase with Legalization.

"Marijuana legalization and sales have had minimal to no effect on major crimes in Colorado or Washington. We observed no statistically significant long-term effects of recreational cannabis laws or the initiation of retail sales on violent or property crime rates in these states."

2019 Study (The Cannabis Effect on Crime: Time-Series Analysis of Crime in Colorado and Washington State)

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INDUSTRY COMPLIANCE

- 97% pass rate for Non-Qualified Sales Checks
- Over 3,000 total investigations performed annually (including renewals)

Table 16: Investigations Conducted by MED as of June 30, 2020	
Investigation Type	**Total Number of Investigations**
Business Background Investigation	170
Change of Location Investigation	22
Change of Ownership Investigation	226
Change of Trade Name Investigation	25
Individual Background Investigation	223
Modification of Premises Investigation	147
Non-Qualified Sales Check Investigation (Percent Passed)	118 (97%)
Regulatory and Criminal Investigation	824
Renewal Investigation	1,925
Targeted Compliance Inspection	497

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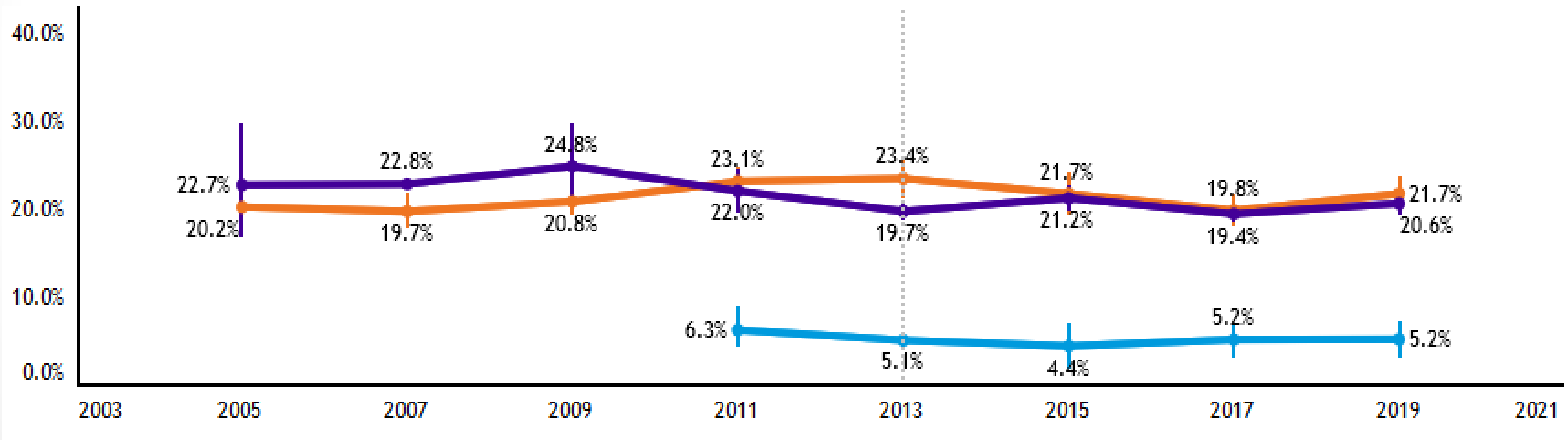
Teen Use Has Remained Flat since legalization

Colorado Dept of Public Health & Environment:
"Since 2005 there have been no significant changes among Colorado High School students using marijuana at least once in the past 30 days."



COLORADO
Department of Public Health & Environment

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Source: CDPHE Healthy Kids Survey 2020

Total Marijuana Sales in Colorado

Tax Revenue by Calendar Year

2021	$290,533,333	**(Jan - Aug)**
2020	$387,480,110	
2019	$302,458,426	
2018	$266,529,637	
2017	$247,368,473	
2016	$193,604,810	
2015	$130,411,173	
2014	$67,594,323	**(Feb - Dec)**

In addition to local sales tax revenue, local governments who legalize also receive 10% of the 15% retail marijuana state sales tax.

Aurora

Marijuana tax revenues paid for a new $34-million recreation center for the City of Aurora. "Home to just over twenty dispensaries, Aurora has invested a hefty portion of its marijuana taxes back into the community."

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Source: Colorado Dept. of Revenue

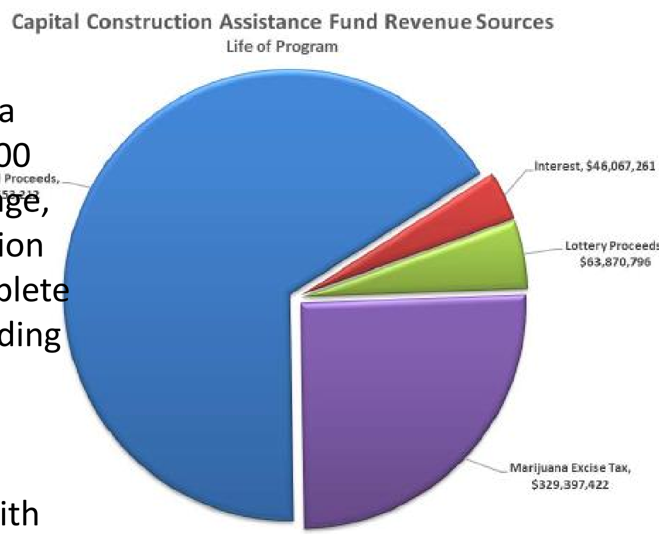
What about the money to schools?

Fiscal Year	Local Share	General Fund	BEST School Capital Construction	Public School Fund	Marijuana Tax Cash Fund
FY 2019-20 Actual	$24.5	$34.4	$88.5	$27.8	$172.1
FY 2020-21 Preliminary	$29.0	$40.6	$40.0	$113.2	$202.6
FY 2021-22 Projected	$27.2	$38.1	$113.1	$30.8	$188.8
FY 2022-23 Projected	$28.5	$40.0	$116.3	$32.3	$197.4
FY 2023-24 Projected	$29.7	$41.6	$118.6	$33.6	$204.2

Denver County 1/ George Washington High School Fire Suppression Upgrades

This project addresses the health and safety of students by upgrading a deficient fire suppression system. The existing building has over 300,000 square feet of building area and 1,174 students. With the square footage, large number of occupants and the use of plastic products of combustion this can lead to occupant exposure and increased egress time. To complete the sprinkler system which will provide early suppression to allow building occupants to safely evacuate the building before the fire spreads.

This project is recommended for BEST Cash funding as follows:
Grant Amount $1,471,517; District Contribution $2,117,549 or 59%, with the source of match being the district's 2016 General Obligation bond.



$329M from Marijuana Excise Tax

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THANK YOU.

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INDUSTRY GROUP

2019 Regulated Marijuana Market Update

Prepared for:

Colorado Department of Revenue,
Marijuana Enforcement Division

PREPARED BY:

MPG Consulting

Leeds School of Business
UNIVERSITY OF COLORADO **BOULDER**

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PROJECT BACKGROUND

Overview

The Colorado Department of Revenue's Marijuana Enforcement Division (MED) occasionally commissions technical studies to highlight key aspects of the state's regulated market. The MED provides this information to improve market transparency and to inform policy makers about the status of Colorado's marketplace.

The report provides several key metrics to the MED and the public and highlights the use of the state marijuana tracking system (METRC) to evaluate regulatory performance. This report is part of the state's continuous efforts to monitor and improve a comprehensive marijuana regulatory framework.

This report is the third edition of Market Size and Demand for Marijuana in Colorado that was originally published in 2014. This edition provides data through year-end 2019 and digs deeper in the capability of the inventory tracking system to provide more detailed information on trade flows, purchase-level trends, supply patterns and many other market characteristics.

Whereas the last edition focused on supply/demand characteristics, this edition provides focus on market trends, product types and intra-state product flow. This edition still provides new views into the maturing legal marketplace from a systemwide to a licensee perspective for the now 7-year-old Colorado legal marijuana market.

For more information please email info@mpg.consulting or brdinfo@colorado.edu.

Key Market Changes: 2017-2019

- **2017:** Combined state retail sales tax rates for adult use marijuana increase from 12.9% to 15%.
- **2017:** New medical condition: PTSD
- **2018:** New courier/transport license
- **2018:** Own-source (vertical) products requirement eliminated
- **2019:** New medical conditions: autism and any condition treated with opiates
- **2019:** New hospitality establishment & delivery license types (effective beginning 2020)
- **2019:** Public companies and nonresidents allowed to own Colorado marijuana companies

SUMMARY

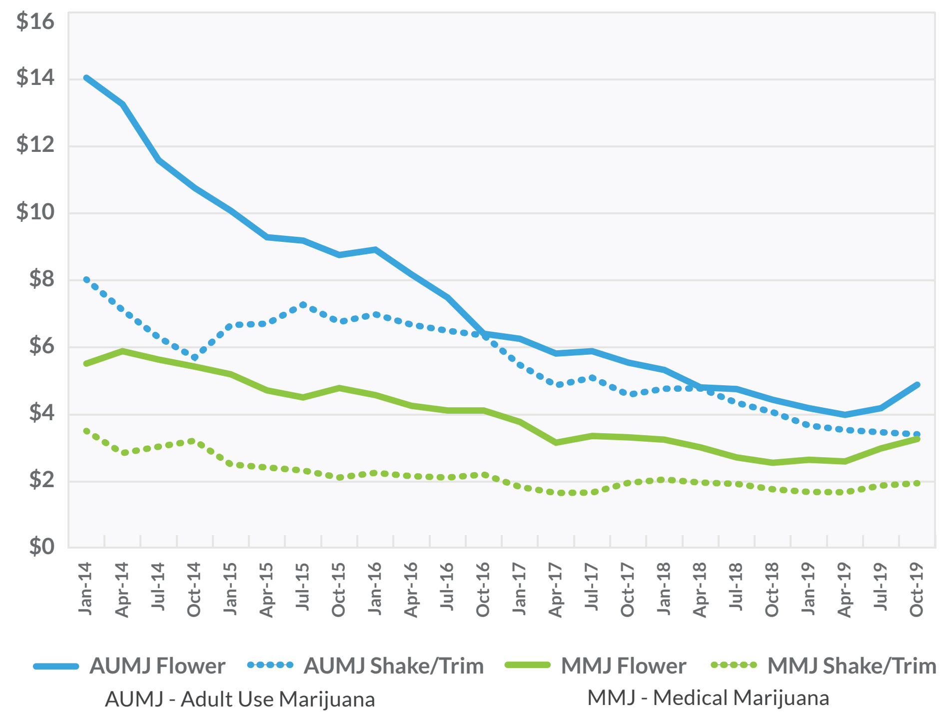
This report provides an updated view and assessment of Colorado's regulated marijuana markets through 2019, including new detail on several aspects of the adult use and medical marijuana markets (AUMJ and MMJ, respectively). This report relies on marijuana inventory tracking data, provided by the state in accordance to the terms of an interagency agreement, and contains continued coverage that provide insights into the nation's most mature regulated marijuana market. This information will be valuable as the state continuously evaluates its regulatory outcomes. Inventory tracking, data analysis, and program evaluation are tools regulators can use to promote a well-organized, safe and efficient market.

Key themes examined in the report are summarized here:

- **The regulated market is nearing maturity now.** Several observations indicate the market is past its introductory and rapid growth phases and nearing maturity. These include current price trends, supply patterns and consolidation.

  1. **Pricing:** Since the regulated adult use market opened in 2014, market-wide prices weighted for transaction size were continuously falling. In spring 2019, average pricing dropped to its lowest point (~$4 per gram of Flower), and then increased for the first time, settling at $4.50 at the end of the year. Concentrate prices hit a similar floor in 2019. This indicates a market finding an equilibrium price that incorporates production costs and margin with demand and competitive factors as observed in mature consumer products markets.

AVERAGE PRICE PER GRAM OF FLOWER & SHAKE/TRIM



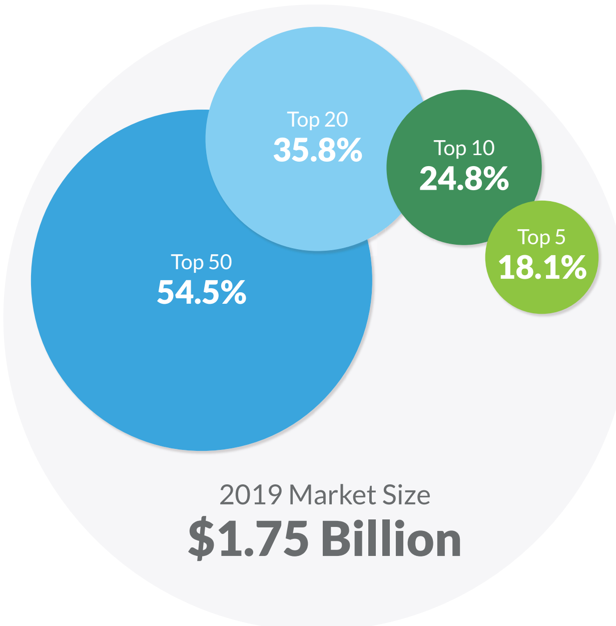
  2. **Supply patterns:** Supply and cultivation volume are showing steady patterns throughout the year and slowing growth overall. Seasonal patterns are emerging strongly that show the increasing significance of the outdoor growing sector, which provides lower-cost wholesale marijuana to infused product manufacturers. Plant counts swell by about 25-30%, or about 200,000 plants, each year between May and November, Colorado's outdoor growing season. Utilization rates, however, have remained relatively constant at about 38%-40%, aside from the predictable seasonal increase.

This is an indication that the market is not artificially constrained by regulatory limits—the constraints are market-based or frictional, e.g., lack of appropriate sites, capital constraints.

3. **Consolidation:** As of 2019, the top 5 firms accounted for 18% of sales, which is a 4-point increase from 2017. Consolidation is another indicator the industry is past its initial growth phase, as companies seek to cut down on costs; achieve more efficient operations; or to make a company more attractive to investors. The regulated marijuana market is still not as consolidated as other industries (see page 32) and will likely consolidate further as a result of allowing ownership of Colorado marijuana sales and production licenses by non-residents and public corporations.

- **A larger and more compliant market.** The trend over the last three years shows improved licensee compliance. The total residual product that is not accounted for in sales or inventory as a percent of total production volume over time has declined from 6.7 percent in 2016 to 3.2 percent in 2019. The residual figure includes product destroyed for failed testing, seized by state and local agencies, drying weight, diverted product, and losses during various production processes as well as a number of other factors. This measure indicates continued improvement in compliance, more accurate reporting, better internal controls, better use of the inventory tracking system by state and industry, and an effective regulatory and enforcement system. The gains in compliance are notable when considering overall supply increased over the same period.

MARKET SHARE BY ENTITY

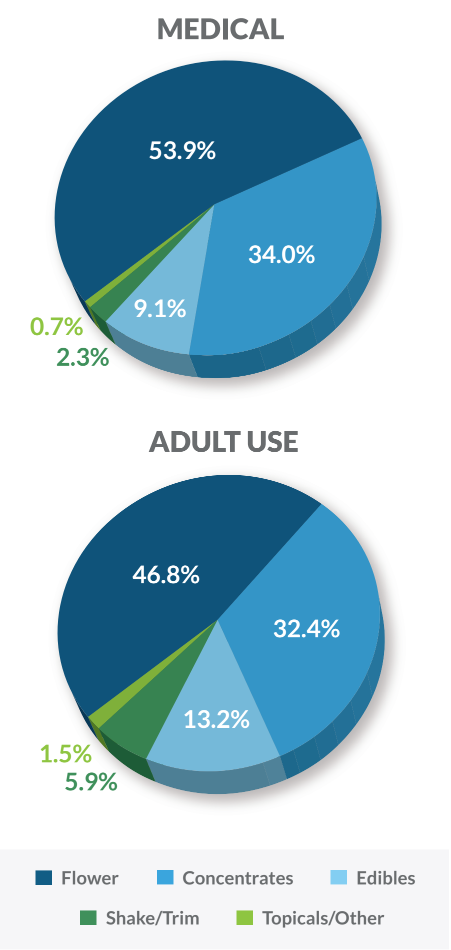


- **Price and sales quantity trends.** Since 2014, prices for almost all regulated marijuana products have continued to decline due to improvements in production efficiencies and competition. In 2019, we observed the first indications that prices may be reaching a floor, possibly related to sustainable profit margins and the limits of technology or efficiency. Despite these low prices, total sales have continued to increase substantially year over year. This pattern is the result of significant increases in product sales that have outpaced the price declines. Concentrates, for example, have decreased in price by 60 percent since 2014, while their sales volume has increased by 7.6 times over the same period. Other product categories follow similar but less drastic trends.

- **Adult use marijuana sales are still increasing, medical sales, not so much.** In 2018, total marijuana sales were $1.55 billion, up from $1.51 billion the previous year – a growth of just 2.5 percent. Sales increased again in 2019, to $1.75 billion—growth of 13.1 percent over last year. Although still significant, adult use sales growth is slowing compared to the early years. The adult use market experienced growth of 90.5 percent and 49.2 percent growth in the first two years, respectively. A closer look shows that adult use sales grew by 11.2 percent between 2017 and 2018 and medical sales declined by 20 percent. Last year adult use sales grew by 16 percent, and medical sales grew by just 1.9 percent. This trend shows that the medical market in Colorado has reached its end-stage, where sales will likely stay stagnant and decline. Adult use market pricing is falling closer to medical market pricing (see page 16), and while key differences in edible products and purchase quantities remain, it is now clear that the adult use market has cannibalized the medical market for growth (see page 15).

- **Shifting demand to Concentrates continues.** While smoking marijuana Flower is still the most common consumption method, it has steadily lost market share to marijuana Concentrates. Adult use marijuana Flower and Shake/Trim lost 17.5 points of market share by value between 2014 and 2019—medical Flower and Shake/Trim lost 20.9 points of market share over the same period. Concentrates market share has increased the most between 2014 and 2019 – increasing from 11.4 percent market share to 32.4 percent in the adult use market and from 14.0 percent to 34.0 percent in the medical market by sales value. Adult use Edibles and other infused products market share has also declined between 2014 and 2019, although more modestly, from 18.2 percent to 14.7 percent. Looking ahead, it is likely that Concentrates will continue to gain market share from Flower, which will likely influence the production patterns of both cultivators and manufacturers. Flower sold for direct consumption tends to be the highest-quality portions of the plant, while Concentrates are often made with lower quality Flower and Shake/Trim. As demand for Concentrates increases, an increasing supply of high-quality Flower may be diverted to manufacturers, or there may be an increase in cultivation space allocated for outdoor or with specific characteristics targeted to extractors.

PRODUCT MIX 2019



- **Transaction analysis reveals new trends.** The inventory data now groups sales items by transaction, allowing purchase level analysis. In general, medical marijuana patients have larger and more valuable transactions, although they account for about 19% of overall market transaction value. The statewide average adult use marijuana transaction is $51.89 and medical marijuana transaction is about double that amount—$97.92. On average, adult use customers purchased 2.16 items per visit in 2019 compared to 2.88 for medical patients. The transaction analysis also includes a basket-of-goods module and a county/regional average transaction analysis, which shows significant variation between counties. In the basket of goods analysis, the transactions indicate that 54.3% of all adult use marijuana purchases include Flower, and 28.0% of adult use purchases that include Flower also include a concentrate product (see pages 28-32).
- **Average potency continues a steady increase.** THC content has typically shown moderate increases over time as growers become more skilled at producing high-THC Flower, manufacturers become more efficient at extracting THC, and perhaps because the market demands higher THC products. On average, Flower tested at around 19% THC content, and Concentrates around 69% in 2019. A more detailed look at product types shows that concentrate average potency ranges from 65% to 74% THC among the different products. Flower, Shake/Trim and pre-rolled joints all average between 18.5% and 19.0% THC. In 2014, Flower averaged about 14% THC and Concentrates averaged 46.4 percent.
- **Price per dose is decreasing.** When considering potency it is important to also consider price, and price per standard dose[1] of THC. Adult use marijuana Flower and Concentrates cost about $1.35 per dose, while Edibles are notably more expensive at $2 per dose. Price per THC dose has declined significantly since 2014, when it was $4.12 for adult use Flower and $5.68 for adult use Concentrates. These patterns illustrate the combined effects of increasing potency and decreasing prices, making it increasingly cheaper over time to achieve intoxication with regulated marijuana.
- **Consumption is increasing in Colorado adults.** Colorado continues to be among the national leaders in adult marijuana consumption according to federal survey data. In 2019, about 18.5% of Colorado residents age 21 and over consumed marijuana in the past month, compared to the national average of 9.6%. Colorado past-month marijuana use is up from 16.6% in 2017. Colorado has a much higher share of "heavy" marijuana consumers compared to the national average. An estimated 4.4% of Colorado's population uses marijuana 26 or more days per month, compared to 2.9% nationwide.

The report is organized in three main sections: **1. Market Trends**; **2. Market Structure**; and **3. Supply, Demand & Consumption**. The report also includes an appendix that provide detail on resident and tourist consumption estimation.

1. MPG identified an average single dose as 57.1mg of inhaled THC, or 10mg of ingested THC in the 2015 Equivalency Study.

Definitions (PART 1)

Adult Use Marijuana (AUMJ)

Marijuana that is grown and sold for adult use pursuant to the Retail Code and includes seeds and immature Plants. Unless the context otherwise specifies, Concentrates and Infused products are considered adult use marijuana and included in the term. The terms “retail” and “recreational” were often used in this context previously. The acronym AUMJ is used for adult use marijuana throughout the report.

Concentrate

Refers to any product which extracts cannabinoids and other compounds into a resinous material. This umbrella term includes any type of hash, solventless (kief), as well as any hash oils (BHO, CO2 oil, shatter, wax, etc.) and indicates that these products are a concentrated form of marijuana, carrying a higher potency.

Edible

Any adult use or medical marijuana product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

Flower Equivalent

A measure developed specifically for this study that converts non- Flower consumption or production into weight-based units of Flower based on relative THC content. This method allows regulators to properly compare supply, demand, potency, and pricing across different product types.

Herfindahl-Hirschman Index (HHI)

A well-known indicator of market concentration (or consolidation), using values between 0 and 10,000. A value below 100 indicates that there are numerous competitors with no dominant operators and a value of 10,000 indicates that the market is organized as a pure monopoly, where one company accounts for 100% of sales. The HHI is calculated by taking the market share of each firm in an industry, squaring them, and summing the result.

Infused Product

A product infused with marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.

Inventory Tracking System

The required seed-to-sale tracking system that tracks adult use and medical marijuana from either the seed or immature plant stage until the marijuana, marijuana concentrate, or marijuana product is sold to a customer at an adult use or medical marijuana store.

Licensee or License Holder

Any individual licensed pursuant to the Colorado Marijuana Code (previously Retail Code or Medical Code).

Definitions (PART 2)

Marijuana Demand
Marijuana demand is defined as the annual amount of marijuana sold in regulated adult use and medical stores expressed in weight.

Marijuana Flower
The Flowering buds of the female marijuana plant that are harvested and cured for sale to manufacturers, adult use or medical stores.

Marijuana Supply
The annual amount of marijuana Flower and Shake/Trim harvested expressed in weight (metric tons).

Medical Marijuana (MMJ)
Marijuana that is grown and sold pursuant to the Medical Code and includes seeds and immature Plants. Unless the context otherwise requires, Medical Marijuana Concentrate is considered Medical Marijuana and is included in the term. The acronym MMJ is used for medical marijuana throughout the report.

Regulated Marijuana
Adult use and medical marijuana that is under the regulatory oversight of the Colorado Department of Revenue's Marijuana Enforcement Division.

Shake/Trim
After harvest, the marijuana plant is generally trimmed of its leaf matter, leaving behind only the buds. Shake/Trim refers to the leftover leaves, which can be used for making Concentrates and Infused products.

THC
Delta-9-tetrahydrocannabinol, the main psychoactive compound in marijuana.

2018-2019 Inventory Tracking System Data Description

Licensees

The licensee data includes 3,877 observations. Attributes include license number, license type, licensee name, city, and zip.

Harvest

The harvest data includes 195,722 observations for 2018 and 155,209 observations for 2019. Attributes include harvest ID, name, drying location, current weight, waste weight, wet weight, packaged weight, plant count, and harvest date.

Plants

The plant data includes 1,330,874 observations for 2018 and 1,512,079 for 2019. Attributes include license number, licensee, immature plant count, vegetative plant count, flowering plant count, harvested plant count, and destroyed plant count.

Plant Allocations

The plant allocation data includes 1,390 observations. Attributes include license number, licensee, tier, and allocated plants.

Transfers

The shipment/transfer data includes 3,026,381 observations for 2017, 3,406,716 for 2018, and 3,828,543 for 2019. Attributes include the shipper facility license number and name, recipient facility license number and name, shipment type, product and product category name, and the shipped and received quantity.

Testing

The testing data includes 8,059,500 observations covering marijuana testing data from 2014 through 2019. Attributes include the origin facility type and Id, retail indicator, package Id, package label, product category, testing facility type and Id, testing facility name and license number, test type, and test result.

Sales

The sales data includes approximately $1.55 billion in marijuana sales representing 43,524,912 transactions in 2018, and $1.75 billion in marijuana sales representing 65,960,024 transactions in 2019. Transaction attributes include license number, adult use/medical, geographic location, transaction ID, package label, product category, total price and quantity sold.

MARKET TRENDS

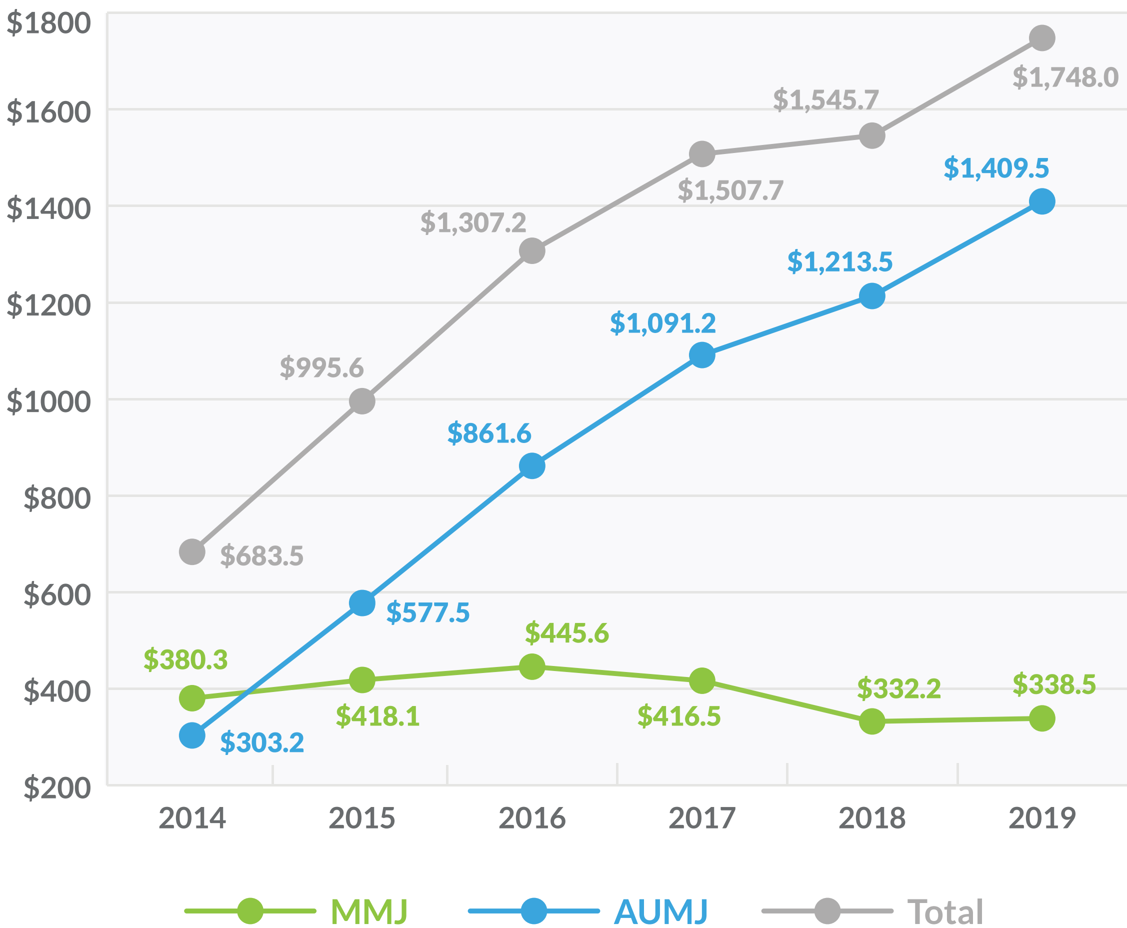
Introduction

This section contains detailed depictions of trends and patterns in both the adult use and medical marijuana markets (AUMJ and MMJ, respectively). Over time, the regulated market has evolved in prices and potency, while the characteristics of local marijuana markets within Colorado vary greatly. The analysis relies on marijuana inventory tracking data provided by MED and contains several new findings that provide insights into the nation's most mature regulated marijuana market. The analysis focuses on market-wide price and potency trends, product mix and a transaction-level analysis. Several key findings emerge from these analyses and are summarized below:

1. **Maturity, price and potency.** AUMJ prices appear to have reached a price floor in 2019 after declining consistently from 2014 through spring 2019, average annual AUMJ Flower prices fell 62.0 percent, from $14.05 to $5.34 per gram weighted average. Over the same period, AUMJ Concentrate prices fell 47.9 percent, from $41.43 to $21.57 per gram. In 2019, prices remained more constant across all product types in the AUMJ and MMJ markets, indicating market maturity. Over the same period, average Flower and Concentrate product potency is steadily rising producing a consistent decrease in the price per THC dose (see page 17). The low price per dose is an indication of increasing production efficiency and competition but also poses new challenges as cheap intoxicants often pose a higher risk for abuse and dependency in other substances.[2]
2. **Product mix evolution.** The shift in sales from Flower, and to a lesser extent Edibles, to Concentrates continues in the AUMJ and MMJ markets. Smoking Flower is still the most common form of consumption, at about 50 percent of sales by value, however AUMJ Flower and Shake/Trim lost 17.5 points of market share by value between 2014 and 2019—MMJ Flower and Shake/Trim lost 20.9 points of market share over the same period. Concentrate purchases includes vaporizer cartridges and other marijuana extracts typically sold by the gram.
3. **A look into transactions.** Transaction-level data allows analysis of average purchase amount/value, basket of goods detail and complementary products. The statewide average AUMJ transaction is $51.89. The average MMJ transaction is about double that amount—$97.92. The basket of goods analysis shows that about 75 percent of AUMJ transactions include only one product type and about half of those single type purchases is for Flower only. More analysis is on pages 28-32.

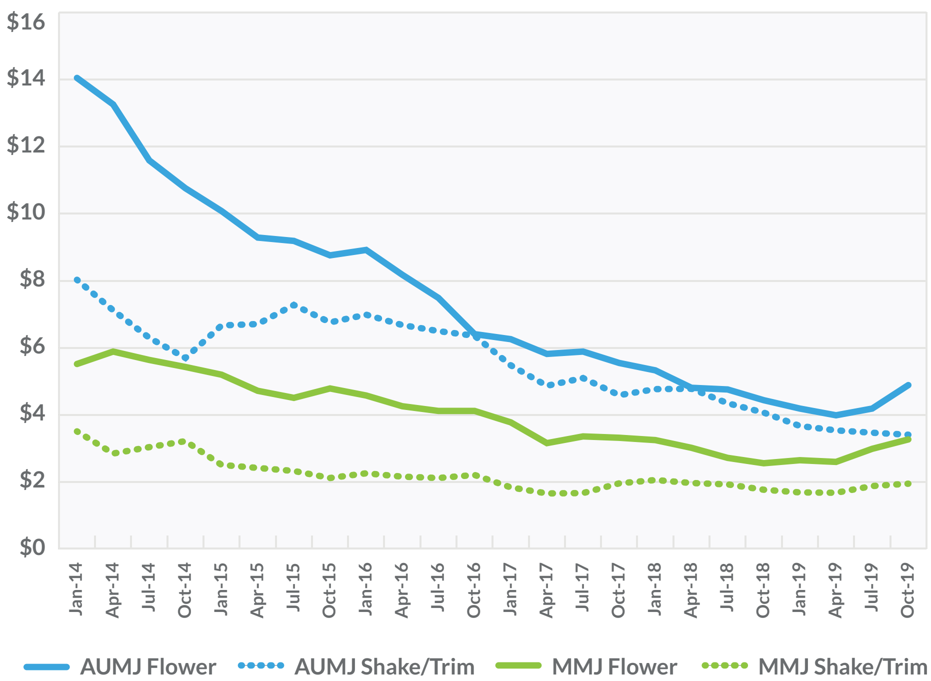
2. https://www.drugabuse.gov/publications/research-reports/prescription-opioids-heroin/heroin-use-driven-by-its-low-cost-high-availability

Annual Sales Colorado Regulated Marijuana 2014-2020



- Total regulated marijuana sales have grown steadily year-over-year since 2014, reaching a record total of $1.75 billion in 2019. On average, total sales have increased 17 percent annually since 2016.
- Growth has been driven entirely by the AUMJ market, which has increased from less than half the total market in 2014 at $303 million, to over 80 percent in 2019 at $1.41 billion. In the same period, MMJ sales slightly increased from $380 to $446 million, but then shrunk back to $339 million, or less than 20 percent of the overall market.
- Based on these trends, it is likely that some of the demand has transitioned from the MMJ market into the AUMJ market despite modestly higher AUMJ prices, perhaps as patients seek to avoid the hassle or costs of registration, and as cross-market prices have more parity. There are more AUMJ stores across the state, so accessibility also plays an important role in growth.
- AUMJ and MMJ prices have declined over the same period, signifying a steadily growing demand that has outpaced price declines in the AUMJ market, and largely kept pace in the MMJ market.

AVERAGE PRICE PER GRAM OF FLOWER & SHAKE/TRIM



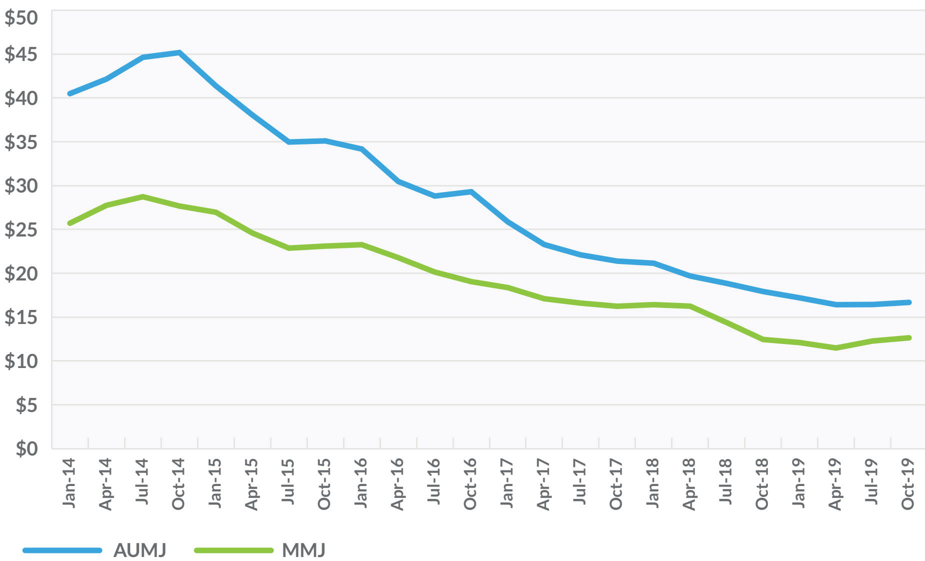
AVERAGE 2019 PRICE PER GRAM OF FLOWER & SHAKE/TRIM

Product	AUMJ	MMJ
Flower	$4.53	$2.86
Shake/Trim (g)	$3.81	$1.86
Pre-Rolled Joint (each)	$10.49	$6.04

- Prices for Flower and Shake/Trim declined steadily over the last five years, likely driven by increased competition & productivity among Cultivators.
- AUMJ customers paid $4.53 per gram of Flower and $10.49 per pre-rolled joint in 2019, compared to $2.86 and $6.04 in the MMJ market.
- The higher cost compared to Flower and Shake/Trim accounts for additional materials (papers, filters) & labor needed to produce joints.
- A common joint typically contains 0.75g to 1.0g of Flower or Shake/Trim, however some can also include THC crystals (kief), wax, or oil as additives to increase potency and/or flavor.

- From 2014 to 2019, the weighted average price of a gram of AUMJ Flower declined from $10.96 to $4.53, an average 16.0 percent year-over-year decrease. MMJ Flower prices declined similarly from $5.44 to $2.86, an average of 11.8 percent per year. Shake/Trim has consistently been priced slightly lower than Flower and demonstrated a downward trend, although with more variability, as it is produced and purchased as a by-product of Flower production.
- In Fall 2019, both MMJ and AUMJ prices for Flower flattened out and then ticked upwards at the end of the year. This could suggest that demand is plateauing; the market is reaching saturation; and competition has driven profit margins down to minimum sustainable levels.

AVERAGE PRICE PER GRAM OF CONCENTRATES

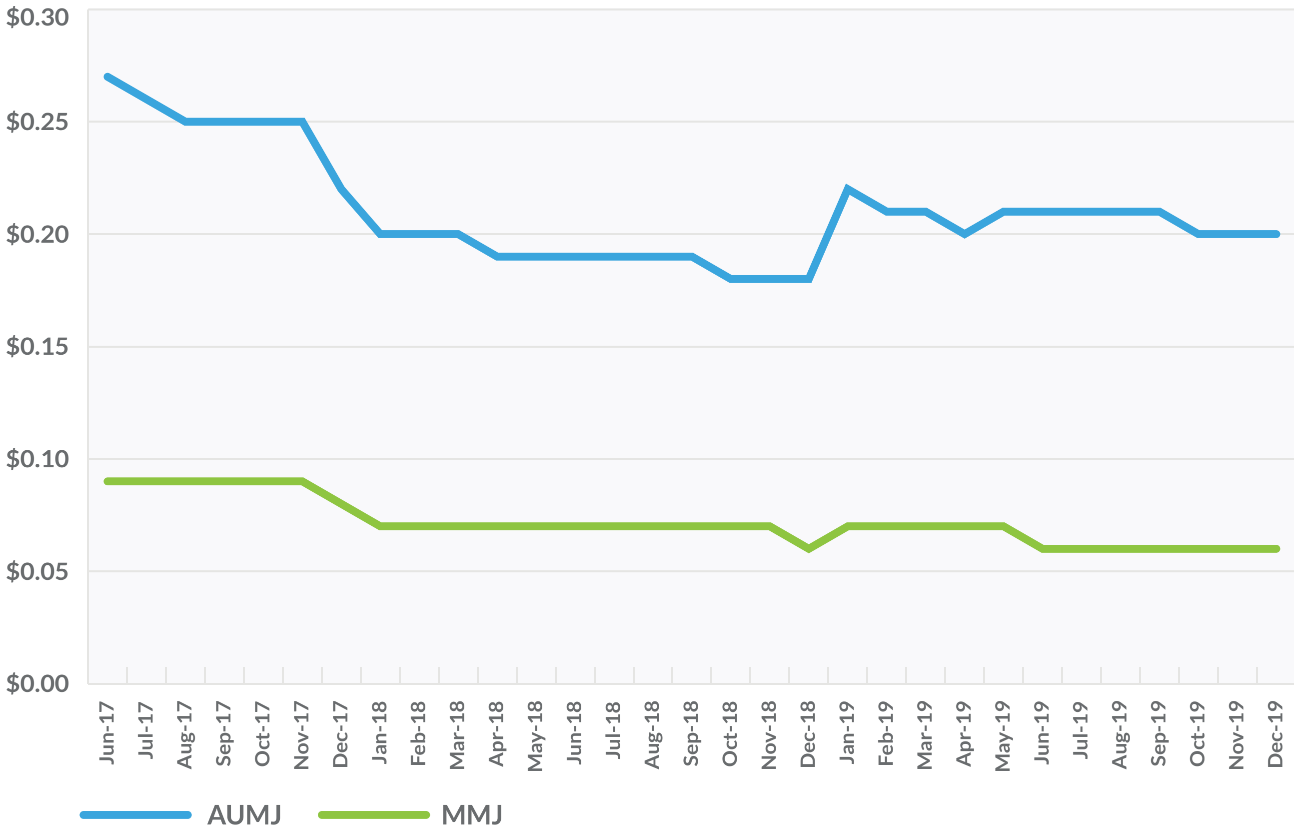


AVERAGE 2019 PRICE PER GRAM OF CONCENTRATE, BY TYPE

Product	AUMJ	MMJ
Concentrates (g)	**$17.06**	**$12.40**
500mg Vaporizer Cartridge (each)	$26.02	$16.47
Oil (g)	$24.19	$18.39
Resin (g)	$22.21	$16.57
Hash (g)	$17.26	$12.37
Sugar (g)	$15.16	$11.28
Wax (g)	$15.15	$11.62
Shatter (g)	$14.54	$10.78

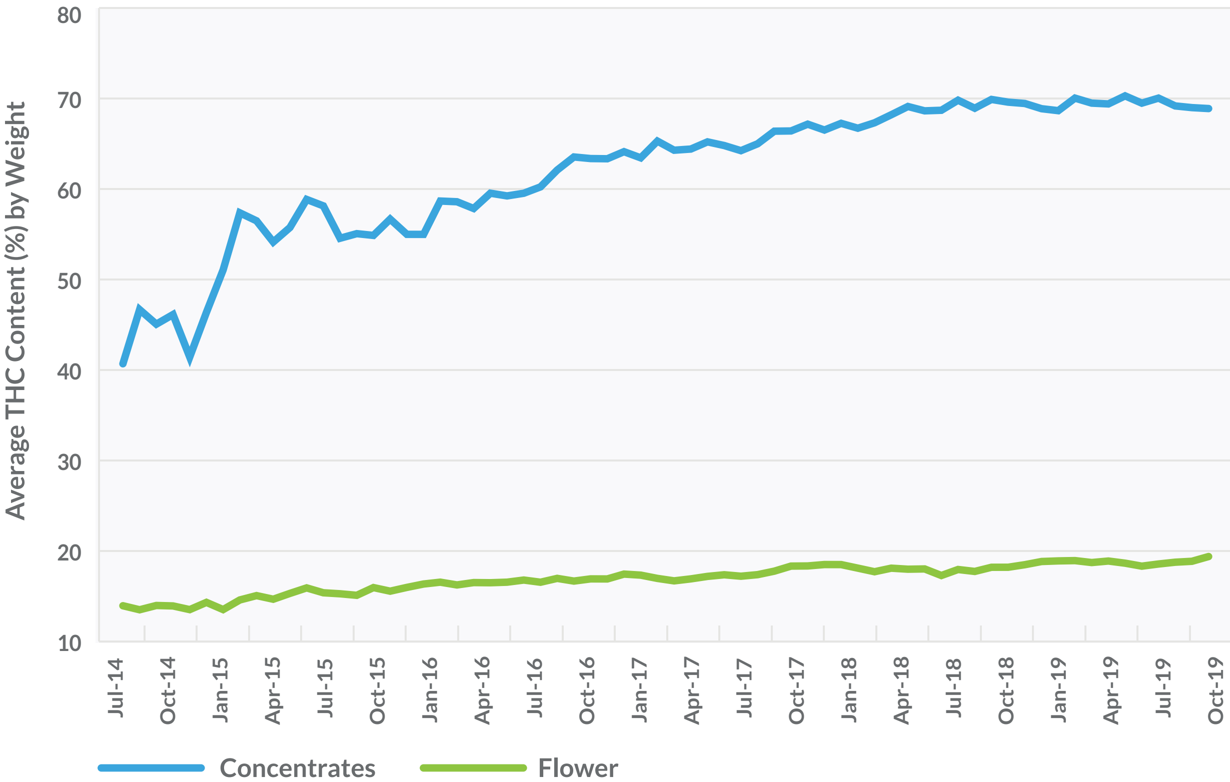
- Concentrates have followed a decreasing price trend like Flower, declining from $45.61 per AUMJ gram in 2014 to $17.06 in 2019, an annual average decline of 17.7 percent. MMJ Concentrates decreased from $27.89 to $12.40 over the same period, for an annual average decrease of 14.9 percent.
- The most expensive form of Concentrates is pre-filled vaporizer Cartridges, commonly sold in 500mg units. These are more expensive because they include the cartridge, which is comprised of a glass chamber, metal casing, and electrical heating element, and require additional processing time and expense to fill the cartridges.
- Other Concentrate types can be grouped into the more expensive Oil, Resin, and Hash, and less expensive Sugar, Wax, Butter, and Shatter.

Average Price per Milligram of Edible THC



- Edibles are sold in several different serving sizes, with the most common products containing 10mg or 100mg of THC in the AUMJ market.
- This chart shows the weighted average price per milligram of THC for all Edible package sizes in the AUMJ and MMJ markets.
- In 2019, AUMJ Edibles would cost $2 for 10mg or $20 for 100mg, compared to $0.60 and $6 for MMJ Edibles of the same size.
- Edible THC prices have steadily trended downward since 2017, with a notable dip in prices between November 2017 and December 2018.
- In January 2018, there was a pronounced drop in both AUMJ and MMJ Edibles per-milligram prices that coincides with a change in packaging and labeling rules.

AVERAGE THC CONTENT (%) PER GRAM OF FLOWER & CONCENTRATE

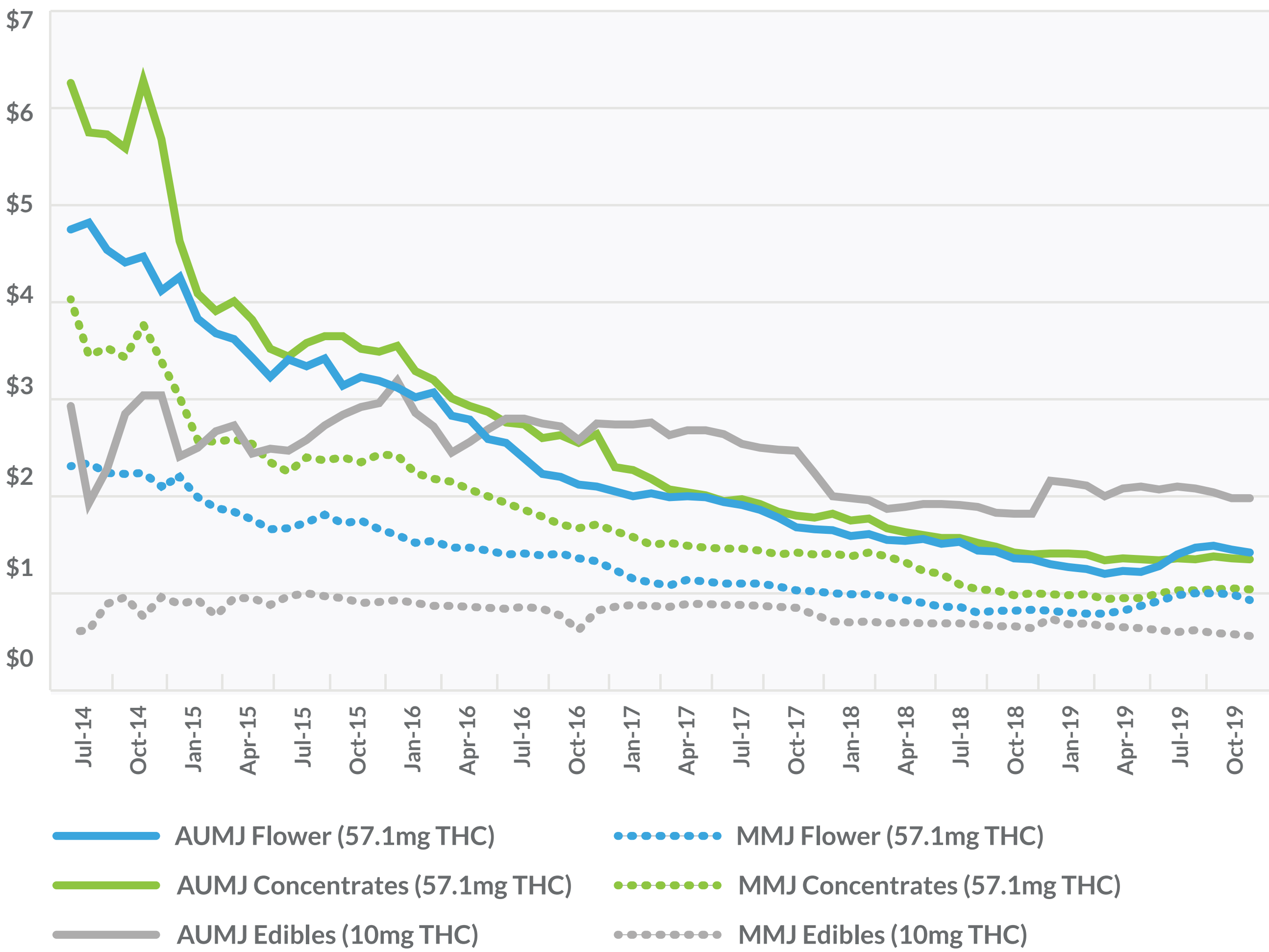


2019 AVERAGE THC CONTENT (%), BY PRODUCT

Product	Avg THC %
Flower (g)	**18.8%**
Shake/Trim (g)	**18.5%**
Pre-Rolled Joint (each)	**18.8%**
Concentrates (g)	**69.4%**
Sugar (g)	73.5%
Hash (g)	71.2%
Resin (g)	70.0%
Butter (g)	69.9%
Wax (g)	69.6%
500mg Cartridge (each)	69.1%
Shatter (g)	66.7%
Oil (g)	65.3%

- THC content has typically shown moderate increases over time as growers become more skilled at producing high-THC Flower, manufacturers become more efficient at extracting THC, and perhaps because the market continually demands higher THC products.
- On average in 2019, Flower tested at 18.8 percent THC content, Shake/Trim at 18.5 percent, and Concentrates at 69.4 percent.
- The average THC content for each sub-category of Concentrates are shown in the Table above, with marginal variability among Concentrate types.

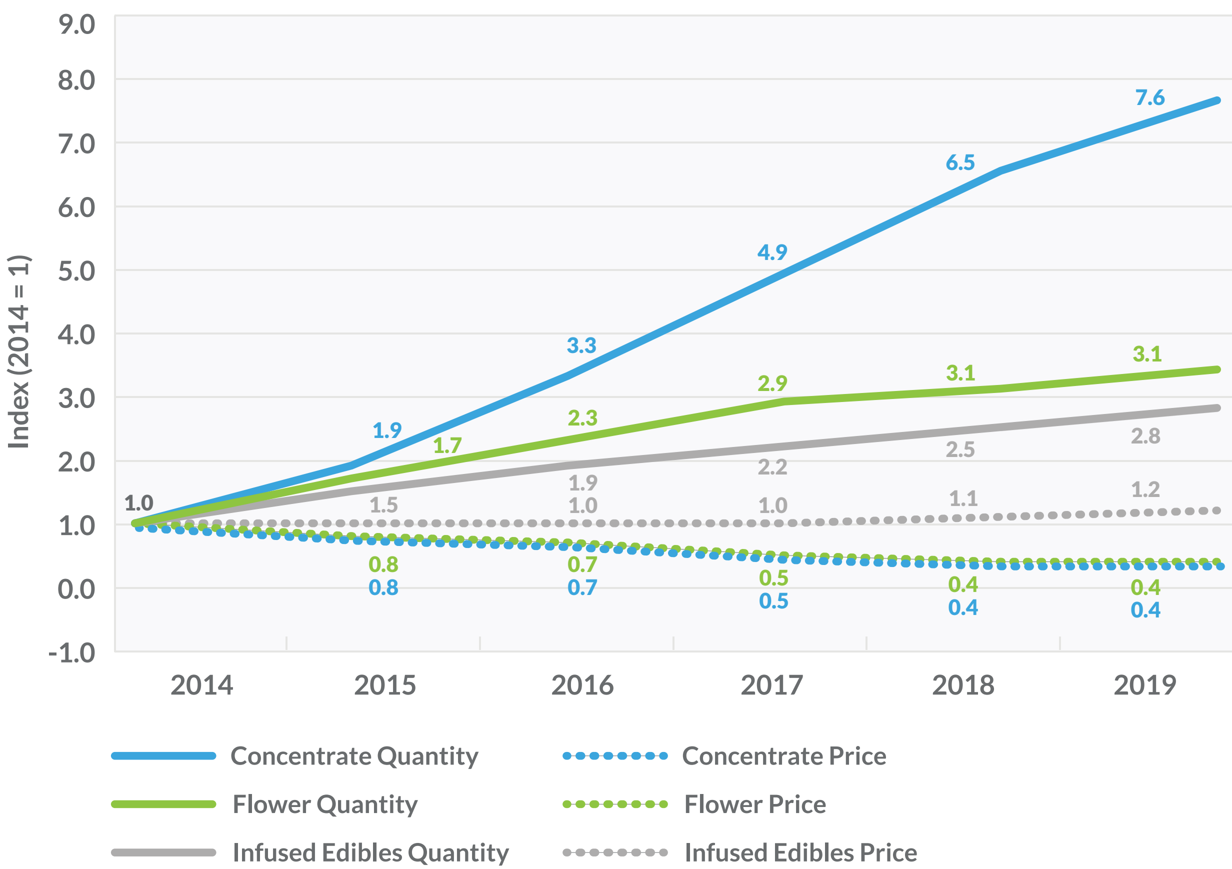
Average Price per THC Dose, by Product



- Previous work in the Equivalency Study[1] has identified an average single dose as 57.1mg of inhaled THC, or 10mg of ingested THC. The chart above illustrates the cost of a single use dose for Flower, Concentrates, and Edibles in both markets.
- MMJ products provide the best value per dose, at around $1 for Flower and Concentrates, and only $0.20 per dose for Edibles.
- AUMJ Flower and Concentrates cost about $1.35 per dose, while Edibles are notably more expensive at $2 per dose.
- These patterns illustrate the combined effects of increasing potency and decreasing prices, making it increasingly cheaper over time to achieve intoxication with regulated marijuana.

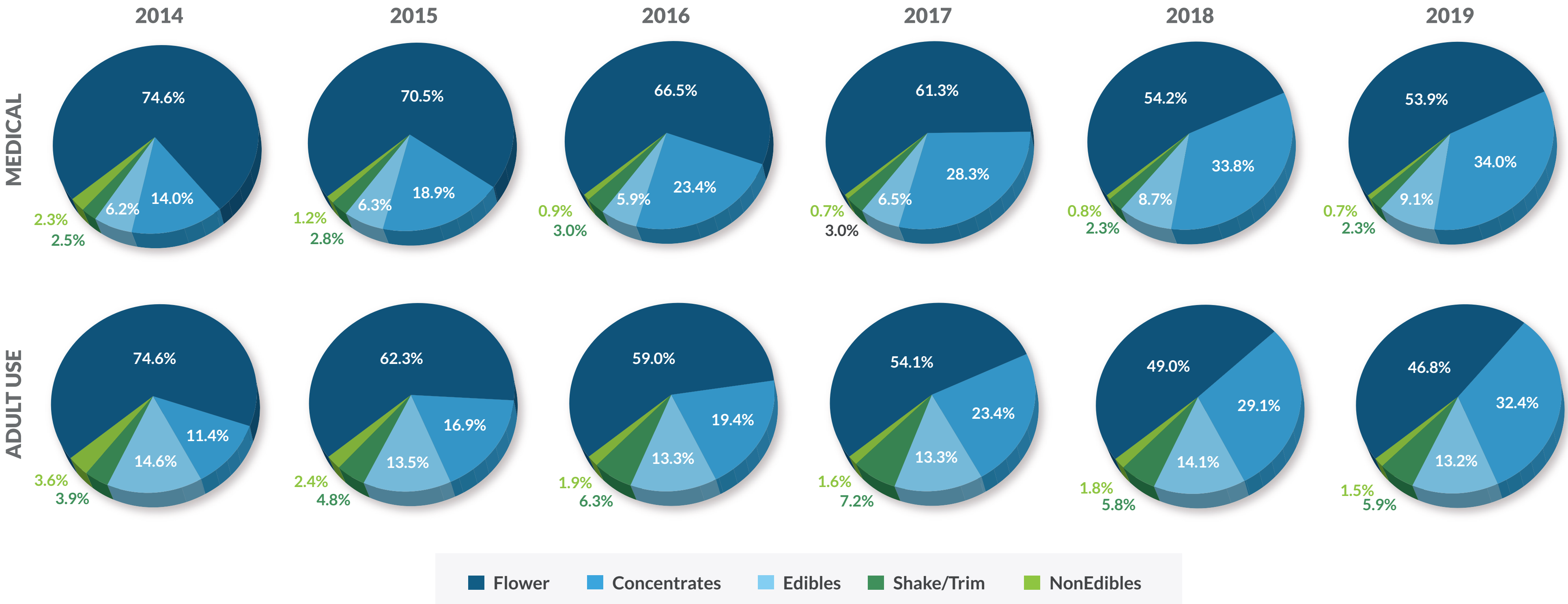
1. MPG identified an average single dose as 57.1mg of inhaled THC, or 10mg of ingested THC in the 2015 Equivalency Study.

Sales Versus Price Trends, 2014-2019



- Despite the declining prices illustrated in the report, total regulated marijuana sales continue to increase year over year. This pattern is a result of product sales that have increased faster than the pace of price decline.
- This figure illustrates the relative growth in product sales volumes, compared to their respective price declines.
- Each quantity data point represents the amount sold each year, relative to the amount sold in 2014. For example, in 2015 there were 1.9 times more Concentrates sold than in 2014, 1.7 times more Flower, etc.
- The price data points similarly represent prices in a given year, relative to their price in 2014. For example, Concentrates and Flower cost 20 percent less in 2015 than in 2014.
- As this chart indicates, the growth in total sales volume for all products has significantly outpaced their respective price declines. Concentrate sales, for example, have increased by 7.6 times since 2014, while prices have declined by 60 percent.

Product Shares, by Annual Sales (PART 1)

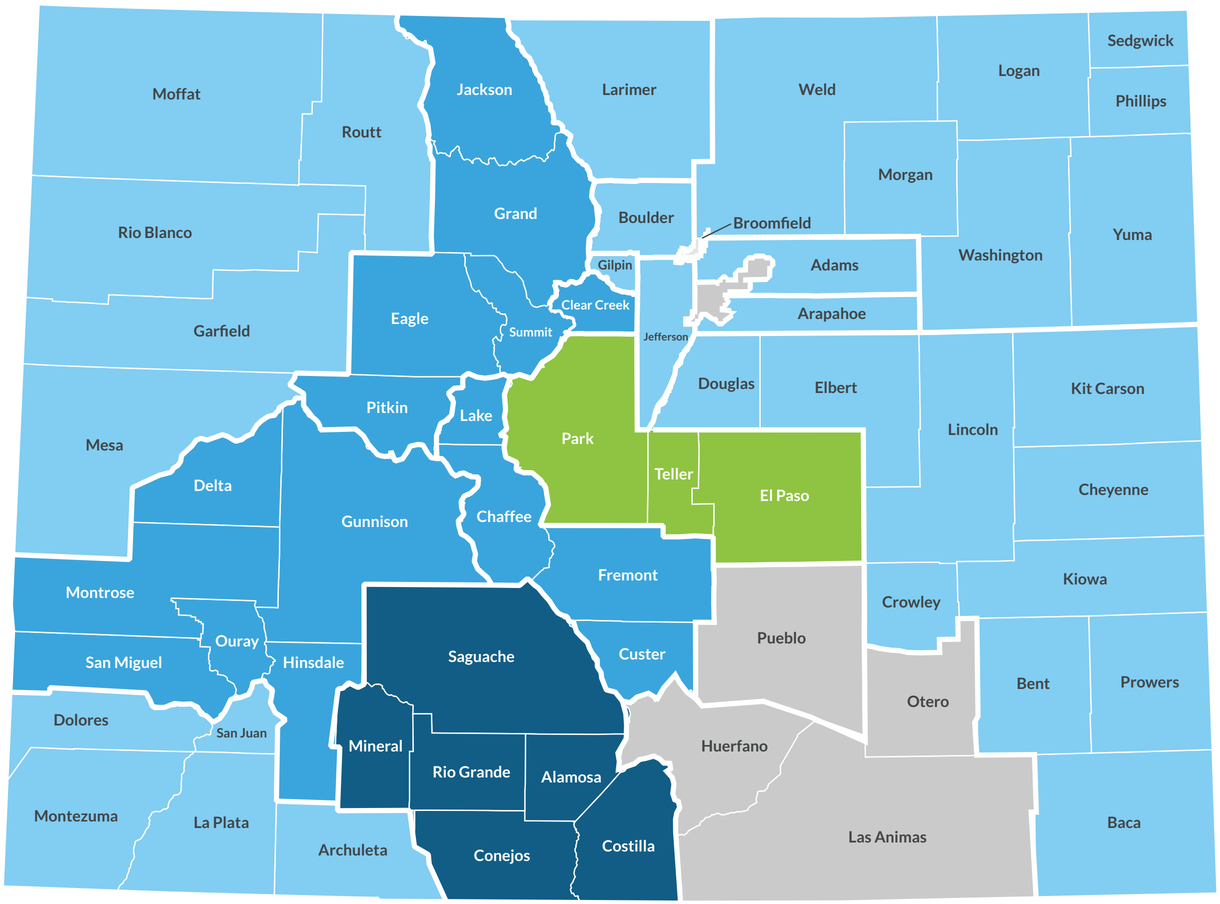


- Over time, consumer preferences in both the MMJ and AUMJ markets have shifted in similar patterns.
- Flower as a share of total expenditures has decreased dramatically over time - from 75 percent of all MMJ expenditures in 2014 to 54 percent in 2019, and from 66 percent of all AUMJ expenditures in 2014 to 47 percent in 2019. This shift could reflect an increasing demand for products that do not require smoking, and for higher-potency products such as Concentrates or Edibles.

Product Shares, by Annual Sales (PART 2)

- Concentrates have exploded in popularity in both markets from 2014 to 2019, by a factor of approximately 2.5. Concentrates offer significantly increased potency and more consumption methods than raw Flower. The market continues to offer new diversified Concentrate products, more so than in any other product category.
- With the exception of a slight increase in Edible expenditures in the MMJ market, expenditure shares for other products have remained relatively stable in both markets. With other product shares remaining steady, it appears that shift is occurring as a result of users in both markets switching from Flower to Concentrates.
- Looking ahead, it is likely that Concentrates will continue to gain market share from Flower, which will likely influence the production patterns of both Cultivators and Manufacturers. Flower sold for direct consumption tends to be the highest-quality portions of the plant, while Concentrates are often made with lower quality Flower and Shake/Trim. As demand for Concentrates increases, an increasing supply of high-quality Flower may be diverted to Manufacturers, reducing the availability and/or increasing the price of AUMJ Flower.

County/Regional Analysis



AUMJ Average Price per Gram

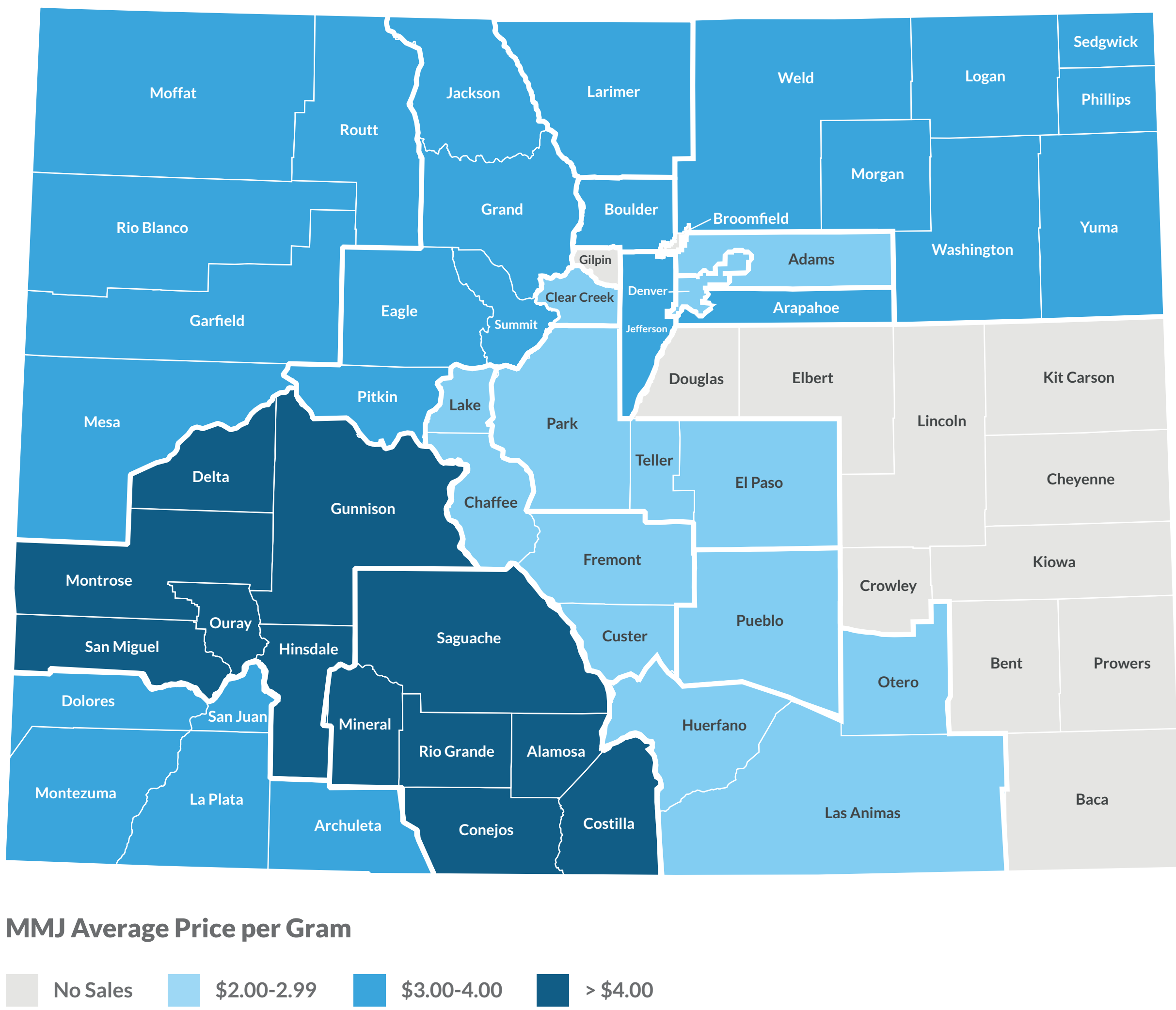
No Sales | < $4.00 | $4.00-4.99 | $5.00-5.99 | $6.00-7.00 | > $7.00

AVERAGE PRICE PER GRAM OF AUMJ FLOWER BY COUNTY/REGION 2019

- The weighted average price of a gram of AUMJ Flower was $4.53 for the state in 2019.
- In general, lower prices are found in the more competitive markets, like in Denver, where the average price of AUMJ Flower was $3.93 per gram.
- Highest regional prices were found in the region containing Park, Teller, and El Paso counties, with weighted average per gram prices of over $9.60. Colorado's south central region containing the San Luis Valley also reported higher prices.

Note: Results are reported for each state region marked in the map above. Some regions contain more than one county, and counties within a region may prohibit marijuana activity. In those cases results are reported for the entire region.

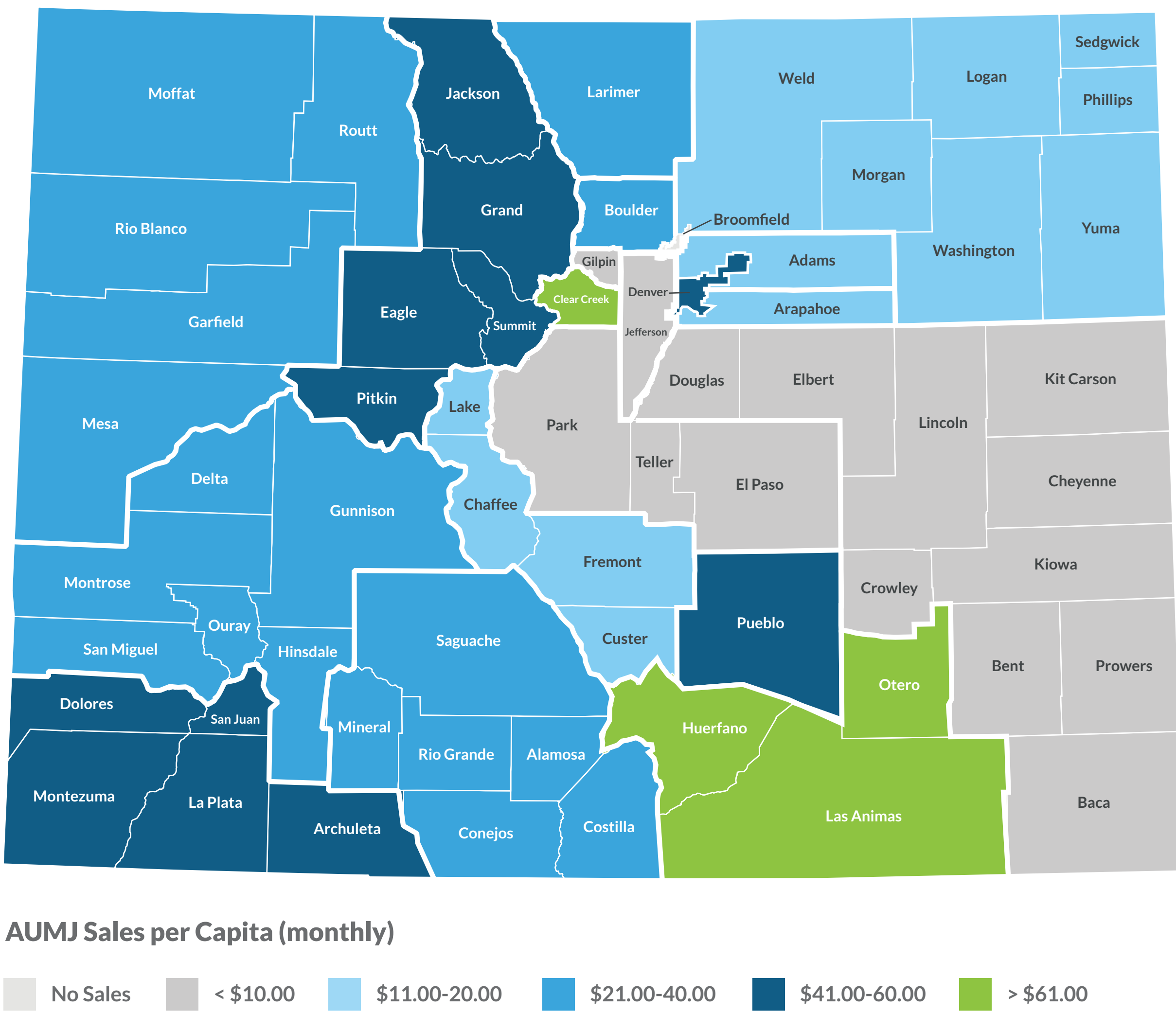
County/Regional Analysis



AVERAGE PRICE PER GRAM OF MMJ FLOWER BY COUNTY/REGION, 2019

- The weighted average price of a gram of MMJ Flower was $2.86 for the state in 2019.
- The San Miguel/Montrose/Gunnison/Delta and San Luis Valley regions had the highest weighted average medical prices, each with about $4.40-$4.90 per gram.
- Lower prices were found in Denver ($2.85) and in the Huerfano/Las Animas/Otero county region ($2.79).

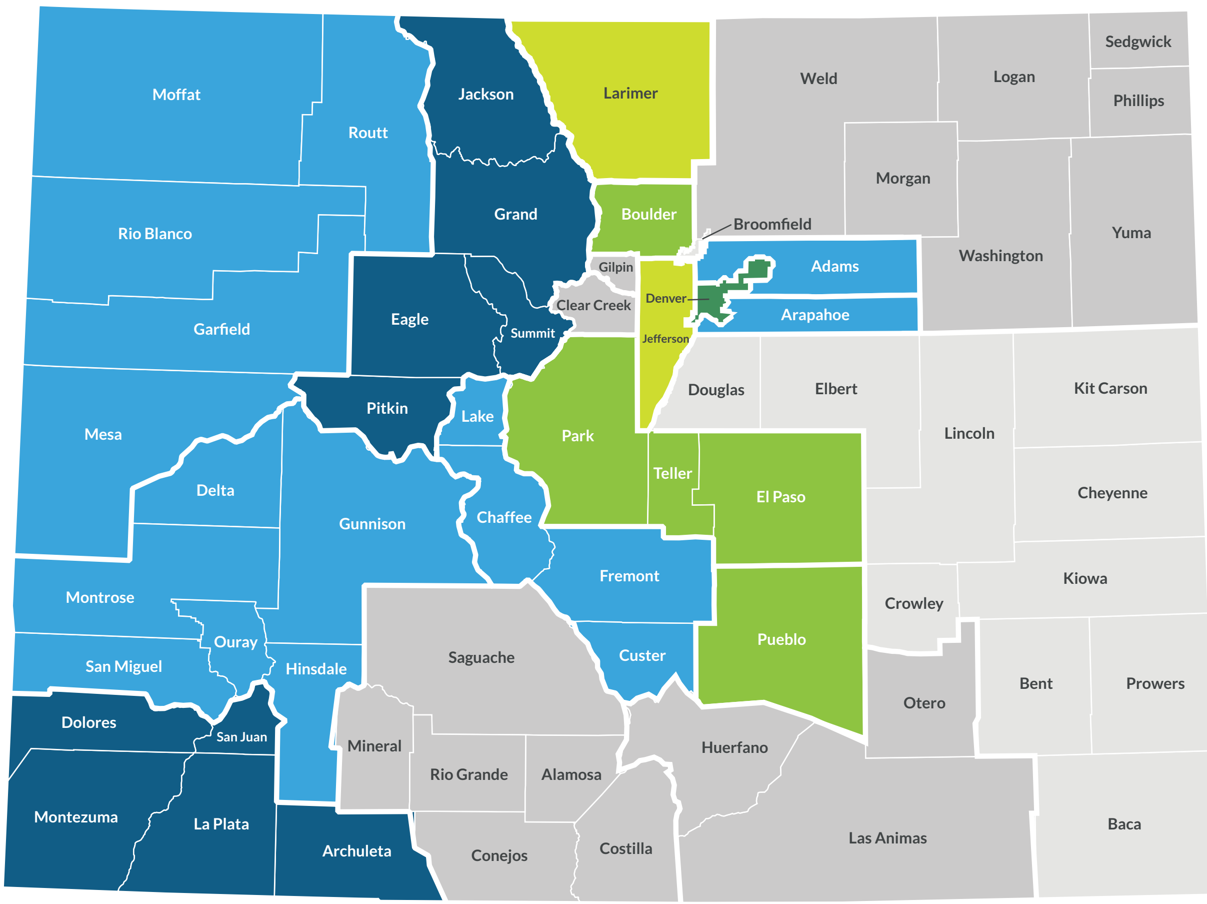
County/Regional Analysis



MONTHLY PER CAPITA ADULT USE SALES BY COUNTY/REGION, 2019

- Monthly adult use sales per capita for Colorado was $21.68 in 2019.
- Areas with higher monthly per capita sales generally serve a population larger than their residential population, indicating a tourism or border region, or a regional commercial services center.
- Lower figures indicate a lower number of retailers in the region.

County/Regional Analysis



MMJ Sales per Patient (monthly)

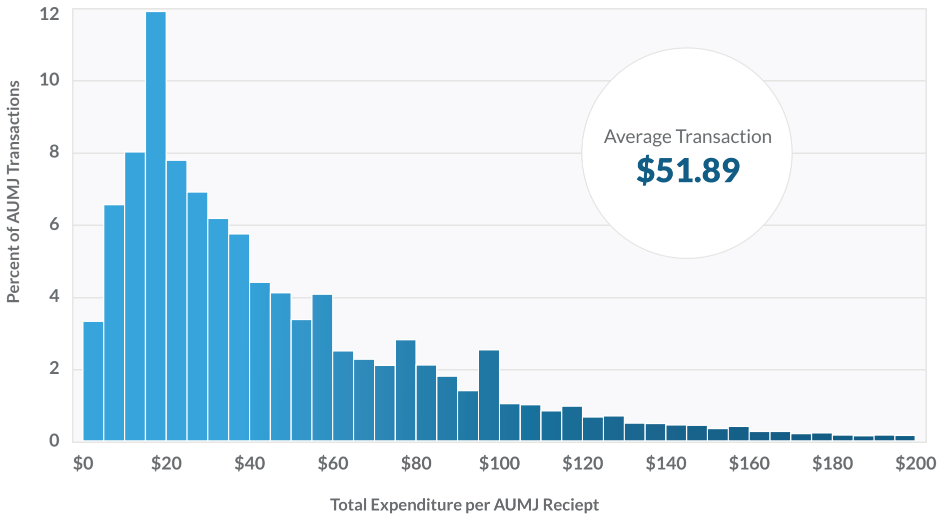
No Sales | < $100.00 | $100.00-119.00 | $120.00-139.00 | $140.00-159.00

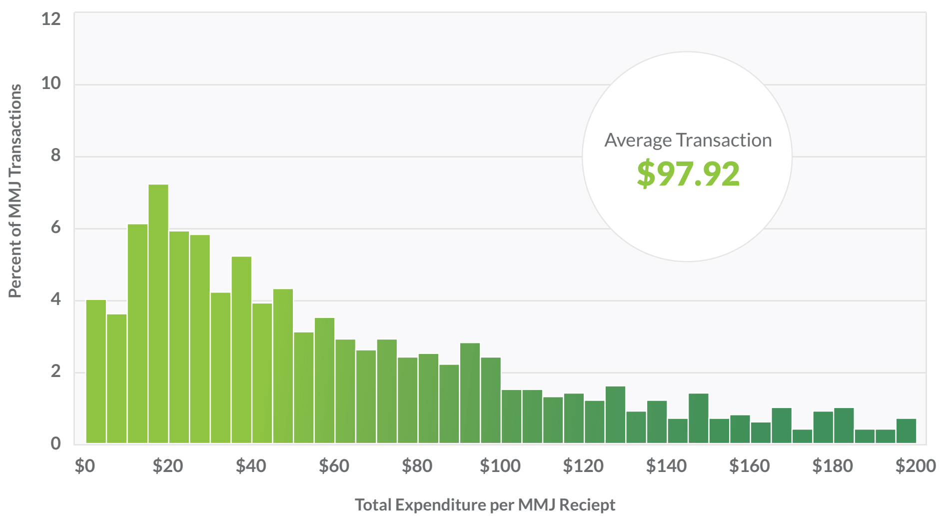
$160.00-199.00 | $200.00-1,000.00 | > $1,000.00

MONTHLY MMJ SALES PER PATIENT BY COUNTY/REGION, 2019

- MMJ sales per patient is influenced by dispensary location and patient residence. MMJ patient counts have generally declined over time as the adult use market has emerged.
- Denver County is the commercial center for MMJ sales in the state and posts the highest monthly sales per registered patient ($1,100) indicating it serves patients from multiple counties. The statewide average is $333.
- In general Western Slope regions counted sales of about $100-$140 per patient. The Front Range, including the Colorado Springs and Pueblo regions, have higher sales per patient. The northern Front Range has sales of $160-$200 per patient - the southern Front Range is $250-$500 per patient.

Transaction Analysis – Total Expenditures per Transaction





- The Figure at left shows total receipt expenditures as a percentage of all 2019 transactions. Each bar represents a $5 range, where the furthest left bar in AUMJ indicates that approximately 3 percent of all AUMJ transactions were less than $5, approximately 7 percent were between $5-10, and so forth.
- The most common transaction value for AUMJ was between $15-20, accounting for approximately 14 percent of all AUMJ transactions.
- Nearly 30 percent of all AUMJ transactions are for less than $20, and almost 90 percent cost less than $100.
- Only 21 percent of MMJ transactions were less than $20, while 77 percent were less than $100.
- The overall average AUMJ transaction was $51.89, nearly half the average $97.92 MMJ receipt.
- The primarily cash nature of sales is apparent in AUMJ transactions, where customers tend to spend in $20 increments. This is less pronounced in MMJ transactions, though still observable.

Transaction Analysis – Basket of Goods (PART 1)

A new transaction indicator variable in the Inventory Tracking System data allows examination of the average product mix and purchase amounts for AUMJ and MMJ transactions. These Tables show the percentage of transactions that included each product type in 2019.

AUMJ	Product 1 Purchases		Product 2 Purchases | Product 1 Purchase				
Product 1 Purchased	Only Product 1	Includes Product 1	Flower	Concentrates	Shake/Trim	Edibles	Non-Edibles
Flower	37.3%	54.3%	100.0%	28.0%	26.6%	28.4%	23.9%
Concentrates	19.1%	35.2%	18.1%	100.0%	21.8%	28.7%	26.5%
Shake/Trim	9.3%	18.3%	9.0%	11.3%	100.0%	14.1%	11.6%
Edibles	8.6%	20.1%	10.5%	16.4%	15.4%	100.0%	44.6%
Non-Edibles	0.7%	2.1%	0.9%	1.6%	1.3%	4.6%	100.0%

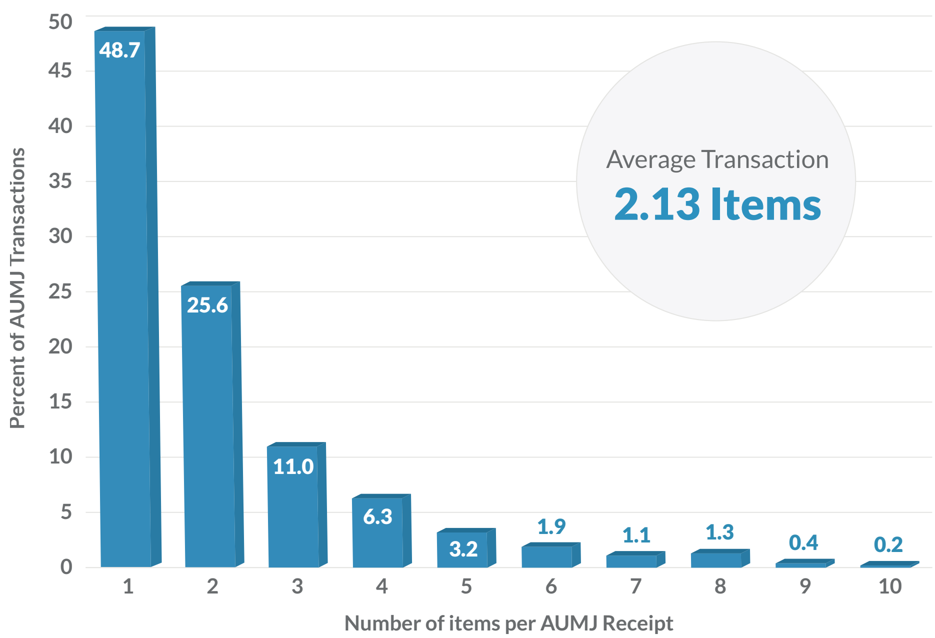
- The “Only Product 1” Column describes the percentage of all transactions that only included a single product type, i.e. 37.3 percent of all AUMJ transactions included only Flower products.
  - 75 percent of all AUMJ transactions included only one product type, while 25 percent of transactions had more than one product type.
- The “Includes Product 1” Column describes the percentage of customers purchasing some of the product type.
  - 54.3 percent of all AUMJ purchases included Flower.
- Starting with the fourth column from the left and moving right, these columns are labeled with each product type, and describe the percentage of transactions that contain a second product type (Product 2), accompanying a Product 1 purchase.
  - 28 percent of MMJ transactions that include Flower also include Concentrates, 28.4 percent include Edibles, etc.

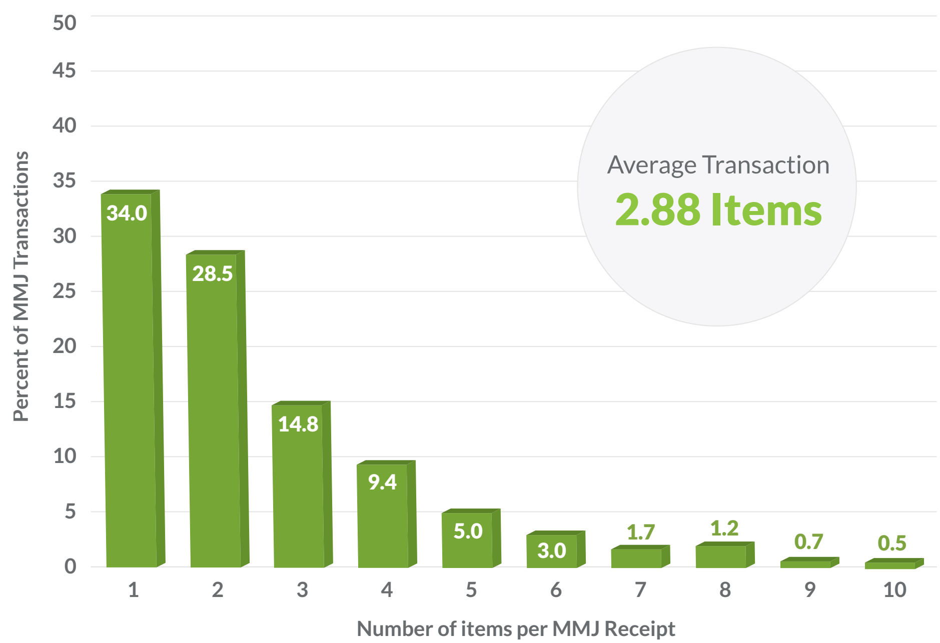
Transaction Analysis — Basket of Goods (PART 2)

MMJ	Product 1 Purchases		Product 2 Purchases | Product1 Purchase				
Product 1 Purchased	Only Product 1	Includes Product 1	Flower	Concentrates	Shake/Trim	Edibles	Non-Edibles
Flower	37.2%	60.7%	100.0%	36.2%	42.2%	38.6%	39.0%
Concentrates	21.2%	42.5%	25.3%	100.0%	27.6%	36.4%	35.1%
Shake/Trim	4.4%	12.2%	8.5%	7.9%	100.0%	9.4%	9.2%
Edibles	6.4%	18.7%	11.9%	16.0%	14.5%	100.0%	40.5%
Non-Edibles	0.5%	1.9%	1.2%	1.5%	1.4%	4.1%	100.0%

- MMJ transactions more commonly include multiple product types (30.3 percent vs. 25 percent for AUMJ).
- MMJ transactions are also more likely to include both Flower and/or Concentrates.
- A smaller proportion of MMJ transactions include Edibles and/or Shake/Trim, suggesting that patients are less likely to purchase pre-roll joints and favor Concentrates and Flower as consumption methods.

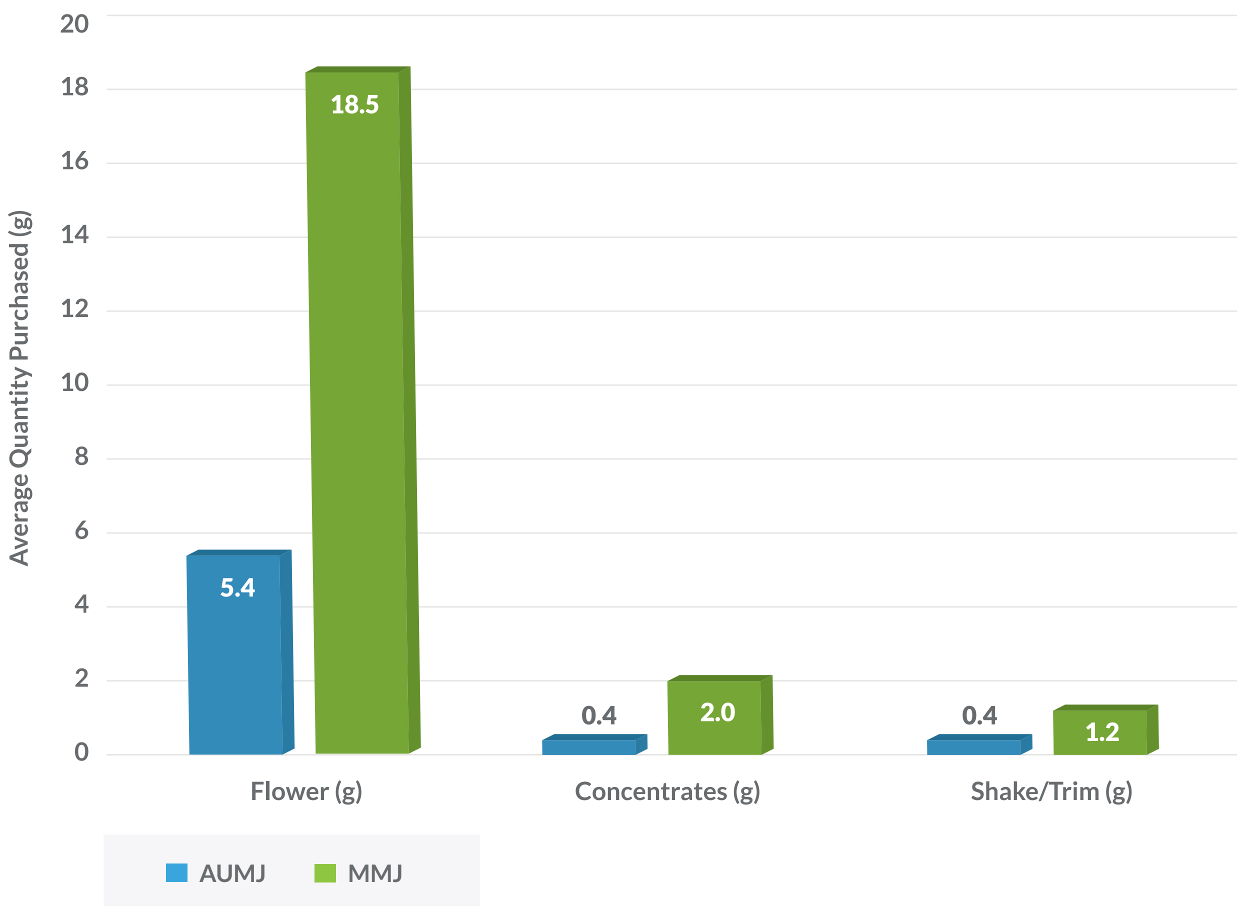
Transaction Analysis — Average Number of Items per AUMJ & MMJ Transaction, 2019





- On average, MMJ patients purchased 2.88 items per visit, more than the average 2.13 items purchased by AUMJ customers.
- Nearly 50 percent of all AUMJ transactions had only one item, compared to only 33 percent for MMJ.
- Approximately 85 percent of all AUMJ transactions had three or less items, compared to 77.3 percent for MMJ.

Transaction Analysis - Transaction Size 2019



- The transaction data illustrates the differences between AUMJ and MMJ shopping carts.
- MMJ patients purchase more of all product types, including over three times as much Flower (18.5g) per transaction as AUMJ customers (5.4g).
- MMJ patients also purchase more Concentrates per transaction at 2.0g, compared to 0.4g for AUMJ customers. Cartridges are included in this category and are commonly sold in 0.5g quantities.
- Shake/Trim transactions often represent pre-rolled joints. Where a common joint typically contains 0.75 - 1.0g, AUMJ customers buy an average of less than one pre-roll per transaction, while patients purchase one.

MARKET STRUCTURE

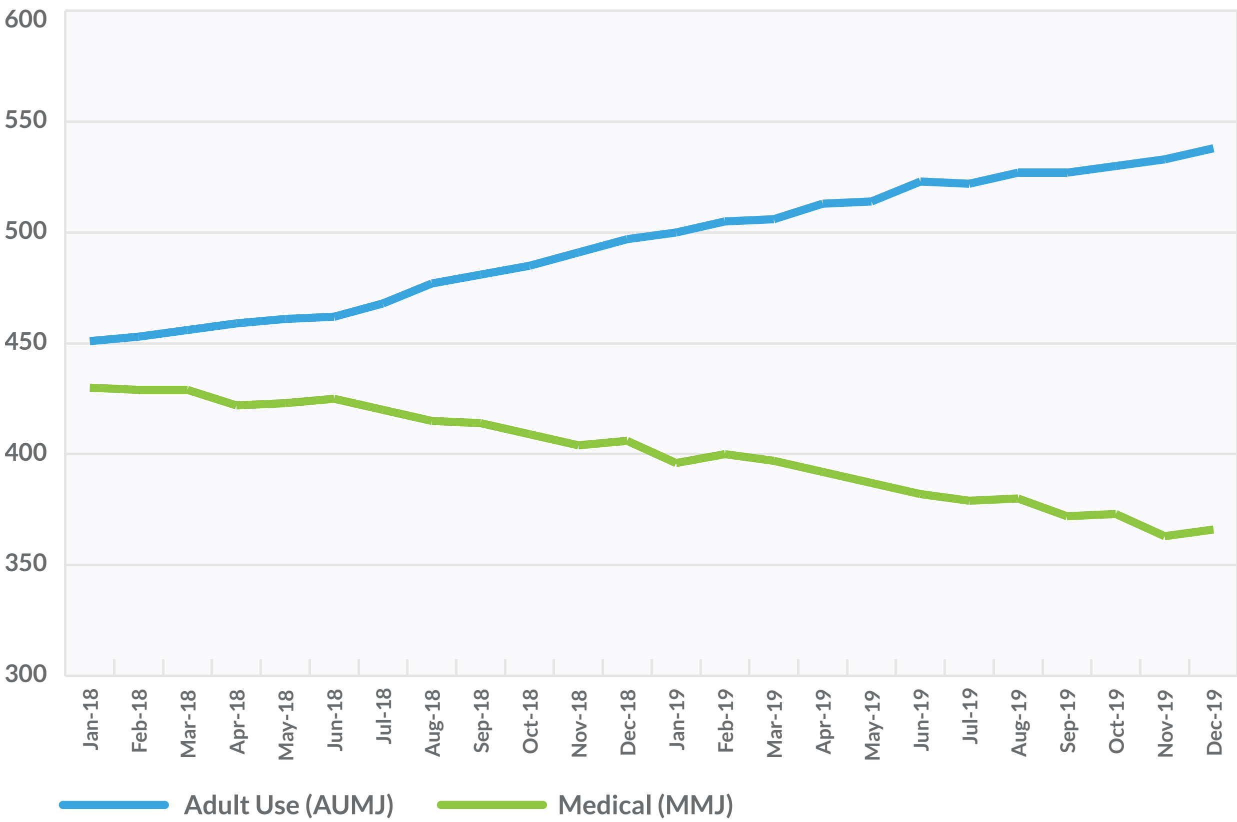
Introduction

This section provides information on the adult use and medical marijuana market structure in Colorado, which has completed several evolutionary steps from its origin as a vertically-integrated medical-only regulated market. The market went through several large-scale changes, including the opening of the adult use market in 2014; an end to the vertical integration requirement; and rapid growth of the adult use market between 2014 and 2019.

There are several regulatory changes implemented in late 2019 that allow for more investment from outside Colorado and more varying corporate ownership structure. The impacts of these changes will likely become clearer at the end of 2020 and in 2021. The expanded market structure analysis focuses on market concentration and inter-county trade flows. Key findings from these analyses are summarized below:

1. **Licenses and sales.** New licensed businesses or locations continue to enter the market, there was a 10 percent growth in licenses for adult use or medical stores. The balance is shifting towards adult use licenses as a share of total active licenses have increased from 51.2 percent in January 2018 to 59.5 percent in December 2019. Over half of store locations (53.1 percent) report sales of over $1 million, and 10.0 percent of locations have annual sales of $5 million and over. These figures also indicate a large amount of market share – 42 percent – that come from corporations that would be considered a small business by the U.S. Small Business Administration (less than $8 million for specialty retail stores).
2. **Corporate sales concentration.** The other side of that figure, however, is that over half of the market (58 percent) is controlled by what would be considered medium or large businesses. The top five corporations control about 18 percent of sales and the top 10 companies account for 25 percent. Over time the market is concentrating, the corporate concentration index has increased by 22 points since 2017, although the Colorado marijuana market is not as concentrated as other comparable industries such as beer, tobacco or pharmaceuticals.
3. **Trade flows.** A new trade flow analysis is included in this edition where intra-state trade flows are presented for the first time. As expected, sales and production are both concentrated along the Colorado Front Range, but several interesting trends emerge about the geographic flow of goods. Denver City/County is the state's largest net producer, and neighboring Arapahoe County is the state's largest net consumer. Pueblo County is another important production center, accounting for 17.4 percent of all transfers between counties. There has yet to be any large-scale de-urbanization of mostly indoor marijuana cultivation facilities, owing largely to a mix of difficulties in accessing capital markets and rural county prohibition of facilities.

Active Store License Count, 2018-2019

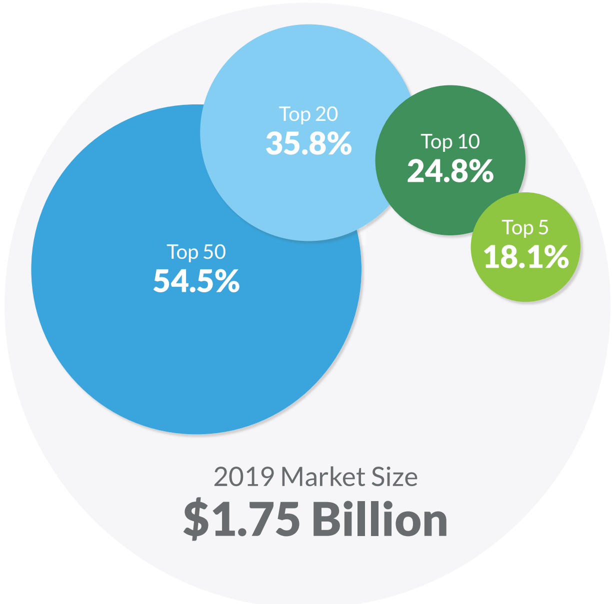


- Examining data from 2019 Inventory Tracking System sales tables, there were 972 unique store licenses that reported sales, compared to 963 in 2018.
- Adult use store licenses have been on an upward trend each month, with a 10.6 percent increase from 2018 to 2019 in the average number of licenses reporting sales each month, compared to a decrease of 8.7 percent for MMJ store licenses. A single location may have 2 store licenses, for medical and adult use sales.
- AUMJ store licenses as a share of total active store licenses have increased from 51.2 percent in January 2018 to 59.5 percent in December 2019.
- The number of individual store licenses reporting sales of $1 million or more grew to 517 (53.1 percent), out of a total of 972 AUMJ and MMJ store licenses in 2019. Approximately 49.5 and 46.7 percent of store licenses reported sales over $1 million in 2018 and 2017, respectively.

Market Concentration

- Matching licenses to corporate entities, the project team calculated market share allocations for 2019. Of the 416 corporate entities, the top 5 were responsible for 18.1 percent of total sales in 2019, while the top 100 were responsible for 71.4 percent.
- The top ten individual store locations with the most sales in 2019 were in Larimer/Weld, El Paso, Denver, and Arapahoe Counties.
- Using the Herfindahl-Hirschman Index, a measure of market concentration, the marijuana market is competitive when viewed by company (HHI=122.2). An HHI below 100 indicates a highly competitive industry, while an HHI above 2,500 indicates a highly concentrated industry.
- Colorado's marijuana industry is much more competitive than the U.S. tobacco industry (HHI=3,100) and the U.S. brewing industry (HHI=2,162).

MARKET SHARE BY ENTITY



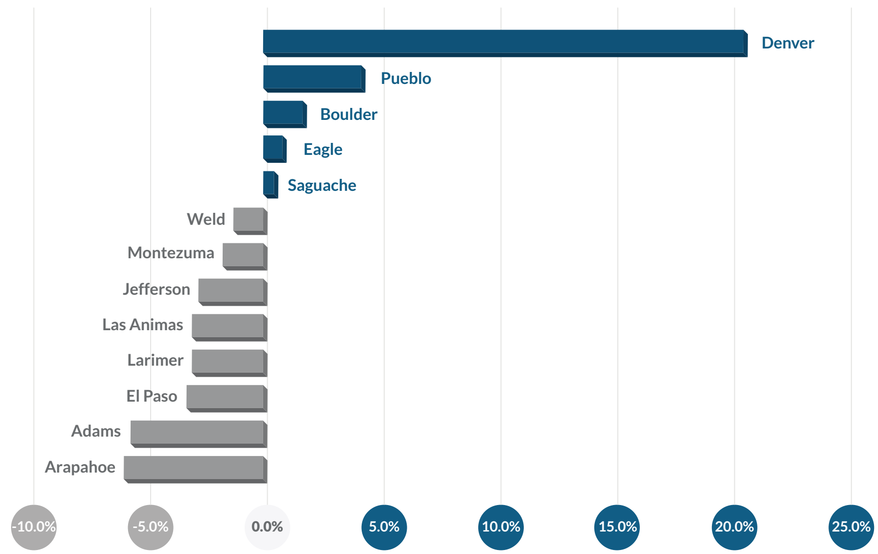
HHI INDEX COMPARISON

Industry	HHI
Tobacco (2013)	3,100
Beer (2013)	725
Pharmaceuticals (2016)	210
Colorado Marijuana (2019)*	122

Source: The Roosevelt Institute; Hawkins, B., et. al. 2016.
* HHI by corporate entity

Within-County Flower Production Surplus , Ranked (2019)

County	"Production Share (Plants Harvested)"	"Consumption Share (Flower+Shake Weight Sold)"	"Production Surplus"
Denver	58.96%	38.31%	20.64%
Pueblo	10.00%	5.80%	4.20%
Boulder	6.74%	5.05%	1.69%
Eagle	1.35%	0.53%	0.82%
Saguache	0.58%	0.12%	0.46%
Weld	0.62%	1.91%	-1.28%
Montezuma	0.23%	1.97%	-1.74%
Jefferson	0.65%	3.44%	-2.78%
Las Animas	0.86%	3.92%	-3.06%
Larimer	1.29%	4.35%	-3.06%
El Paso	7.33%	10.61%	-3.29%
Adams	0.30%	5.99%	-5.69%
Arapahoe	1.87%	7.85%	-5.98%



- The table above on the left shows counties' production share of total plants within the state, their sales share of Flower and Shake/Trim, and their ranked production surplus. For example, Denver accounted for 58.9 percent of all plants harvested in Colorado in 2019, and 38.3 percent of all Flower and Shake/Trim sold to consumers and patients (by weight), making them a net producer with a 20.6 percent production surplus.

- The chart on the right provides a visual representation of the highest and lowest net producers. Denver, Pueblo, and Boulder all produce more Flower and Shake/Trim than they sell, while Arapahoe and Adams must import significant amounts to meet their annual sales volume.

Primary Origin & Destination Counties for Flower Transfers (2019)

Origin County	Share of All Other County Imports
Denver County	43.40%
Pueblo County	17.40%
Boulder County	6.20%
Arapahoe County	6.10%
Garfield County	3.90%
El Paso County	2.90%

Destination County	Share of All Other County Exports
Denver County	24.80%
Arapahoe County	11.30%
Pueblo County	11.20%
Adams County	8.50%
Jefferson County	8.30%
Boulder County	6.60%

- The first table shows the list of primary suppliers of Flower to other counties, while the second table shows the list of Flower recipients from other counties.
- These tables illustrate the counties with the highest level of Flower imports/exports to and from other counties but does not consider net within-county Flower production.
- Denver supplies 43.4 percent of all inter-county Flower Transfers. Considering the high number of Cultivation licenses in the county, this is no surprise.
- Pueblo is the second largest supplier of Flower, accounting for 17.4 percent of all inter-county Transfers. Large outdoor cultivation operations generate significant supplies during the outdoor grow season.
- In the second table, counties are listed based on their share of inter-county import Transfers.
- Denver receives 24.8 percent of all Flower transferred between counties, followed by Arapahoe at 11.3 percent and Pueblo at 11.2 percent.

Denver County Trade Flows

Rank	Recipient County of Denver Bud + Shake	Share of Denver Exports
1	Denver County	58.60%
2	Arapahoe County	7.50%
3	Pueblo County	6.30%
4	Jefferson County	5.50%
5	Adams County	4.60%
6	Boulder County	2.90%

Rank	Origin County of Denver Bud + Shake	Share of Denver Exports
1	Denver County	71.40%
2	Pueblo County	9.00%
3	Arapahoe County	3.90%
4	Boulder County	3.00%
5	Garfield County	2.70%
6	Las Animas County	2.60%

- Denver County is the largest producer and consumer of regulated marijuana—primary trade partners are shown in the tables above.
- The table on the left shows the main recipients of Flower and Shake/Trim cultivated in Denver. As illustrated, most of the marijuana (58.6 percent) cultivated in Denver is also sold in Denver. The next largest importers of Denver-grown marijuana are Arapahoe, Pueblo, etc.
- The table on the right shows the main suppliers of Flower and Shake/Trim sold in Denver. As above, most of the marijuana (71.4 percent) sold in Denver is also cultivated in Denver. The next largest suppliers of Flower and Shake/Trim sold in Denver are Pueblo, Arapahoe, Boulder, etc.

SUPPLY, DEMAND, & CONSUMPTION

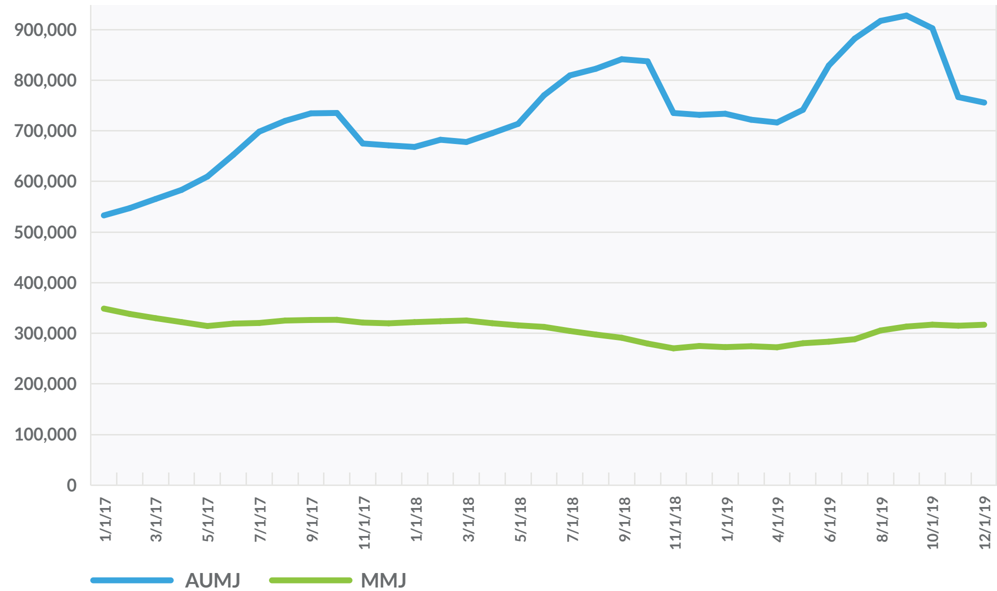
Introduction

This section includes an updated analysis of supply patterns and the attendant plant count utilization rate over time, as well as a quantification of demand and resident consumption. This section also provides an improved tracking and quantification of all marijuana grown, harvested, processed and sold, obtained from the state inventory tracking system. Total supply is computed using transfer data from the inventory tracking system, then traced through the supply chain until it is ultimately sold to the customer or held as inventory. Total marijuana demand is calculated from actual sales to consumers reported in the inventory tracking system. Most supply/demand analyses presented in this section convert Concentrates and Edibles into their Flower equivalent units for calculations across product types. Major findings include:

1. **Supply, demand and statewide product flows.** There were 552.8 metric tons of marijuana Flower equivalent produced and transferred out of licensed cultivation facilities in 2019, which represents an increase of 38 percent from 2017. Sales by Flower equivalent weight increased by 18 percent to 357.5 metric tons over the same period. The difference is accounted for through remaining on-hand inventory, amounts submitted for testing, and residuals. The residual amount includes product destroyed for failed testing, product seized by state and local agencies, drying weight, diverted product, weight losses during production processes, and other factors. In general, there is growth in licensees, production and demand as expressed in sales.
2. **Supply patterns and utilization.** Supply and cultivation volume are showing steady patterns throughout the year and steady growth overall. Seasonal patterns are emerging strongly that show the increasing significance of the outdoor growing sector, which provides lower-cost wholesale marijuana to infused product manufacturers. Plant counts increase by about 25-30% or by 200,000 plants each year between May and November, Colorado's outdoor growing season. Utilization rates, however, have remained relatively constant at about 38-40 percent, aside from the annual seasonal increase.
3. **Inventory and residuals.** The tracking system also reports the amount of product remaining in the system and the residual amount. In 2019, about 117.8 metric tons of Flower equivalent is reported in inventories at year-end, which represents an increasing trend. The remaining residual amount is 17.6 metric tons, which represents 3.2 percent, and is down from 6.7 percent in 2016.
4. **Resident and visitor marijuana consumption.** Resident consumption rates continue to rise in Colorado—about 19.4 percent of Colorado residents consume marijuana on a monthly or more frequent basis, compared to 10.2 percent national average. Colorado also has a relatively large population of daily or near-daily consumers, accounting for about 75 percent of demand.

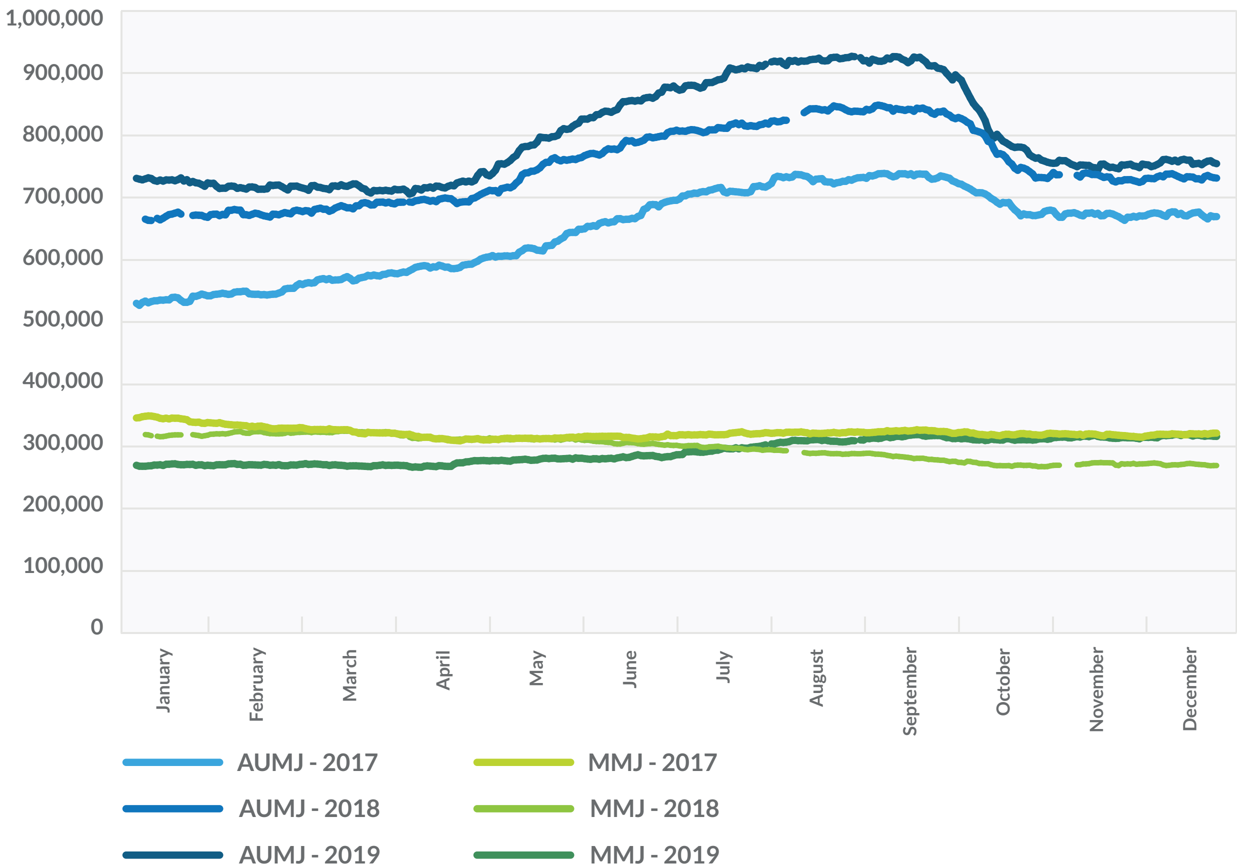
Supply – Plant Count (PART 1)

- The Figure below presents the average daily Vegetative and Flowering plant count from 2017 through 2019.
- There is pronounced seasonality in the number of AUMJ plants as plant counts increase significantly during the outdoor grow season from May through November.
- The number of MMJ plants is much more stable without exhibiting any notable seasonality.
- This is most likely because MMJ grows are more commonly smaller-scale indoor operations.
- The Table below shows the annual growth in Vegetative and Flowering plant count from 2017 through 2019
- AUMJ plant counts have grown significantly year over year, while MMJ plant counts continue to decline.



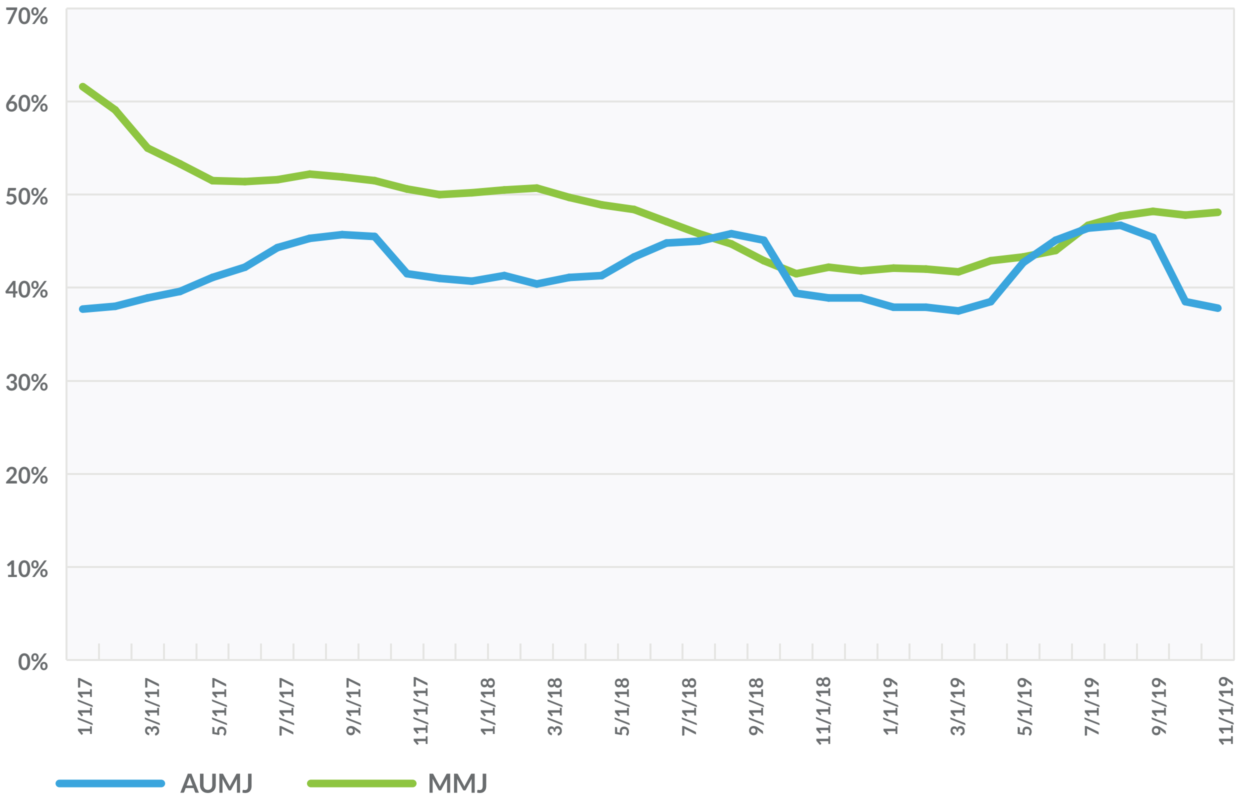
	AUMJ	MMJ
2017 Average	650,085	324,943
% Change	n/a	n/a
2018 Average	753,806	301,209
% Change	16.0%	-7.3%
2019 Average	800,988	294,995
% Change	6.3%	-2.1%

Supply – Plant Count (PART 2)



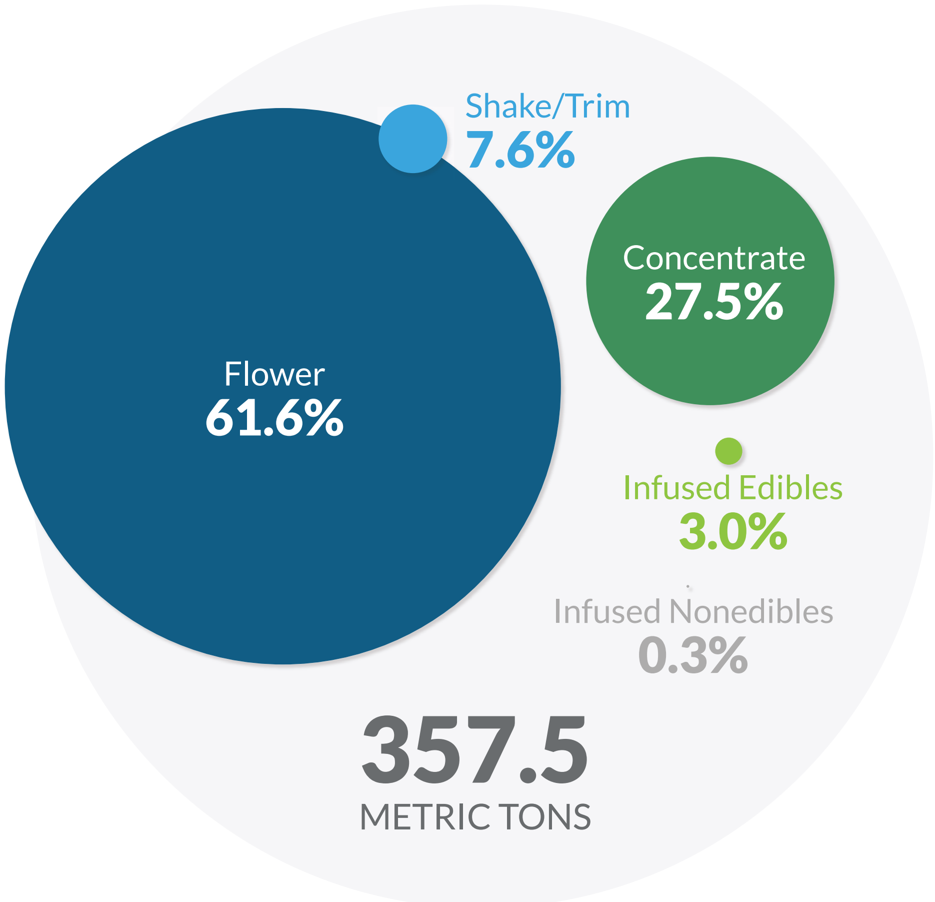
- This Figure presents the year-over-year total plant count, illustrating annual growth in AUMJ and a consistent trend in MMJ.
- AUMJ seasonality is becoming more pronounced as outdoor grows increase capacity.
- MMJ patient counts remain stable and medical demand is stable throughout the year.

Supply – Plant Count Utilization Rate



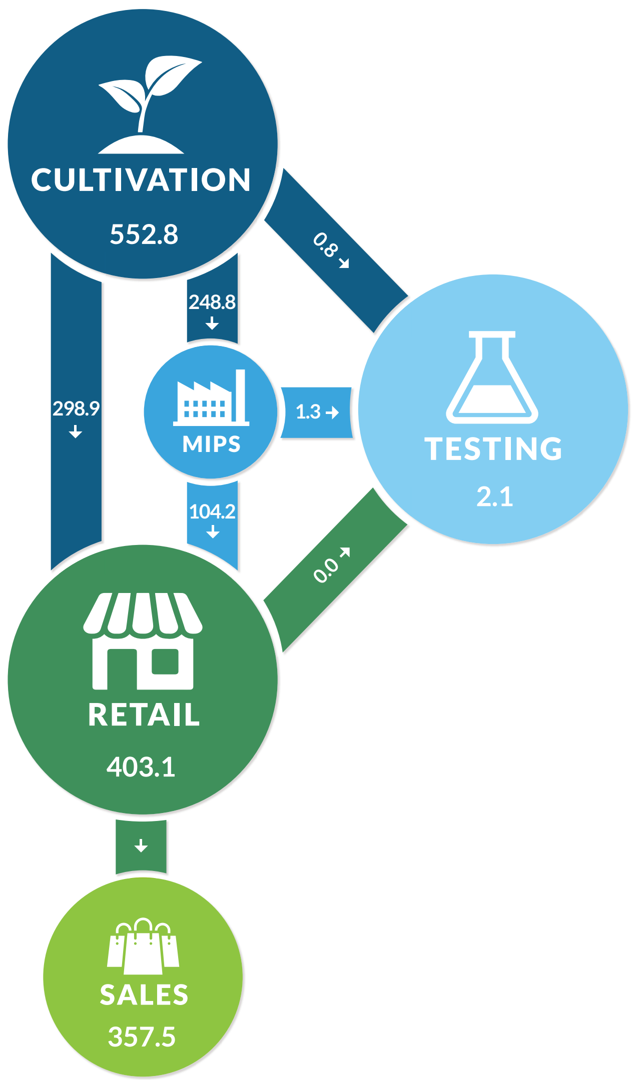
- The plant allocation utilization rate shows the portion of the total market plant allocation being utilized over time.
- The MMJ industry has historically utilized 40-60 percent of the possible allocations, declining from 60 percent in 2017 to 42 percent in mid-2019, but then slowly increasing to 48 percent by the end of 2019.
- The AUMJ industry has utilized 38-45 percent of the available allocations, with seasonal influxes likely driven by outdoor cultivations during the growing season.
- In both markets, there is significant room for licensed businesses to dramatically increase marijuana cultivation production under the current plant allocations.

Demand, 2019 Actual Sales, Metric Tons of Flower Equivalent



- Based on 2019 inventory tracking data, sales are:
  - 220.1 metric tons of Flower,
  - 27.1 metric tons of Shake/Trim,
  - 18.3 metric tons of Concentrate material,
  - 11.9 million units of packaged Concentrates,
  - 14.3 million Infused Edible units, and
  - 1.1 million units of Infused non-Edible products.
- Together, 27.3 million units were sold of different non-Flower marijuana products.
- Using Flower Equivalent measures specific to each product category, 2019 demand is 357.5 metric tons.
- About one-third of demand by weight is for Concentrates (98.4 MT), Edibles (10.8 MT) and other Infused products (1.1 MT).

Transfer Flows of Flower Equivalent, 2019 (PART 1)



- Transfer data from the Inventory Tracking System allows us to examine the transfer of all products between license types for the entire regulated marijuana industry in 2019. It is important to note that the figure to the left represents the sum of all downstream transfers during 2019, rather than a snapshot at a single point in time.
- We convert all product types to Flower Equivalent (FE), measured in metric tons. In order to create a uniform flow diagram. For example, if an average gram of Flower has 18.7 percent THC, then a gram of Concentrate with 37.4 percent THC would count as two grams of Flower Equivalent, etc.
- In this chart, the arrows represent downstream transfers between license types.
- 552.8 metric tons of FE transfers originated from Cultivation licenses.
  - 298.9 MT were transferred directly to Retailers
  - 248.8 MT were transferred to Manufacturers (MIPs)
  - 0.8 MT were transferred to Testing facilities
- Manufacturers transfer originations include:
  - 104.2 MT to Retailers
  - 1.3 MT to Testing facilities
- Retail licensees received a total of 403.1 MT of FE as incoming Transfers.
- Data from the Inventory Tracking System sales tables indicated a total of 357.5 MT of FE sold to end consumers.

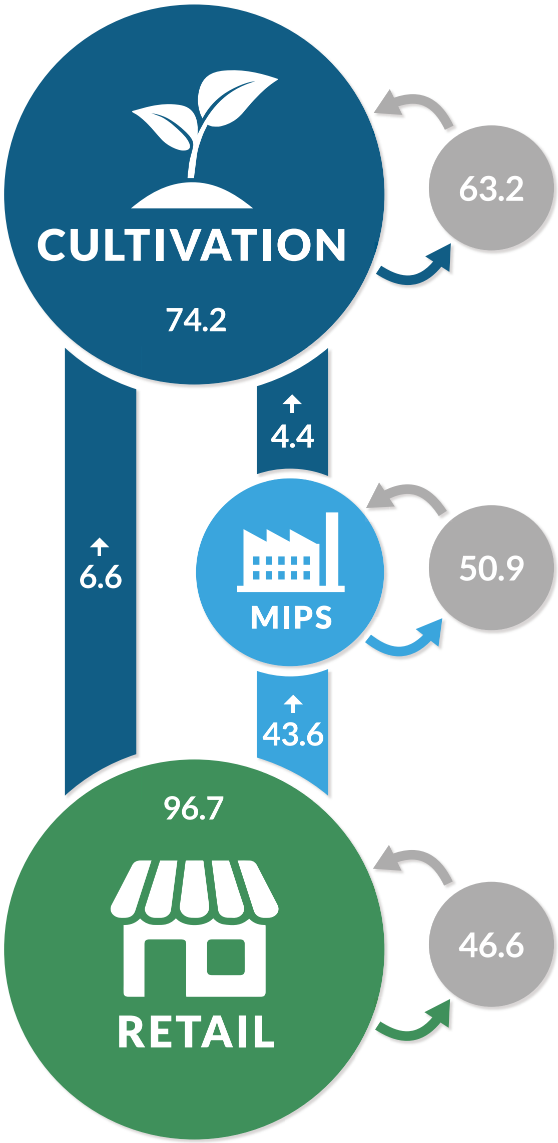
Transfer Flows of Flower Equivalent, 2019 (PART 2)

The numbers in this chart with arrows pointing upward represent upstream transfers, which include the following transfer types:

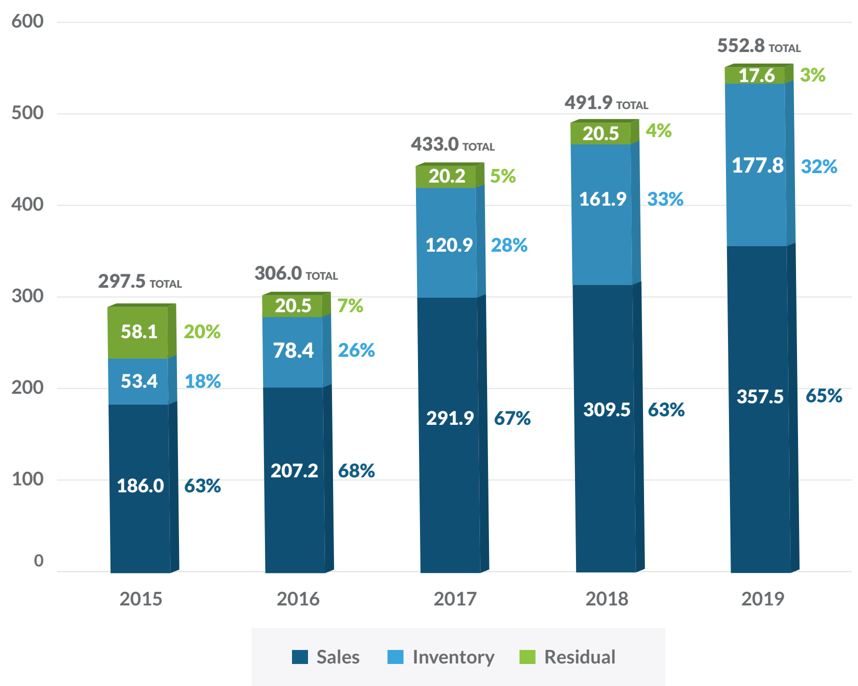
- Transfers among vertically integrated businesses for inventory management; and
- Products sent by Retailers to Manufacturers for processing into other product types:
    - 43.6 MT of FE were transferred from Retail to Manufacturer licensees
    - 6.6 MT were sent from Retailers to Cultivation licensees
    - 4.4 MT were sent from Manufacturers to Cultivation licensees

The lateral arrows represent lateral transfers. Lateral transfers occur between two entities of the same license type.

- **Cultivation:** Cultivation licensees transferred 63.2 MT to other cultivation facilities, mostly for inventory management purposes among vertically integrated organizations. An example would be two cultivation licenses under common ownership, transferring all production to one license for consolidated outgoing transfers.
- **Manufacturers:** Manufacturers transferred 50.9 MT to other Manufacturers. These transfers largely represent secondary processing stages. For example, one Manufacturer would extract THC and oils from raw Flower, and then transfer them to a second Manufacturer to process the THC into Edibles.
- **Retailers:** Retail licensees transferred 46.6 MT to other retail locations, most often for inventory management purposes among vertically integrated organizations. For instance, one Retailer under common ownership might send or receive transfers of a product from another Retailer to replenish depleted inventory.



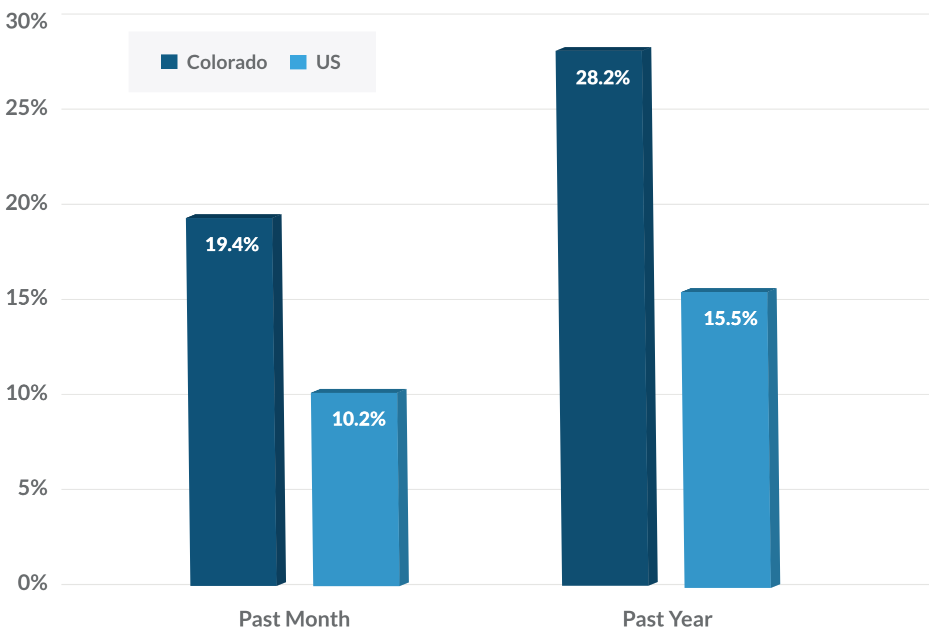
Transfer Flow Inventory & Residuals, 2019



- Combining transfer, sales, and inventory data at the end of year, we calculate the residual amount of produced marijuana products that cannot be accounted for as sales or inventory. In this analysis we compare the sum of all 2019 transfers to the total on-hand inventory on January 1st, 2020 to calculate the end-of-year balance in Flower equivalent.
- As indicated at left, 552.8 MT of FE were transferred from cultivation licenses, and 357.5 MT of FE were sold to end users. Inventory data from January 1st, 2020 indicates that a total of 177.8 MT of FE in inventory by cultivation, manufacturer, and retail licenses. The remaining 17.6 MT of FE represent the residual, which consists of:
  - Seizure or destruction of product by law enforcement
  - Wet versus dry weight entries — post-harvest curing and drying
  - Entry errors in the inventory tracking system database
  - Extraction yield inefficiencies
  - Removal of product for quality assurance purposes
  - Supply chain product loss
  - Retail inventory shrinkage
  - Potential diversion of product outside regulated market
- The 2019 residual of 17.6 MT of FE represents 3.2 percent of total supply. The general trend has been a decreasing residual as a percent of total production volume over time, down from 6.7 percent in 2016. The bar graph to the left illustrates the evolution of total supply (top number) and its components over time, in metric tons of Flower equivalent. (Residual and end-of-year inventory calculation methodology is new for this edition and retroactively applied to prior years for comparison).

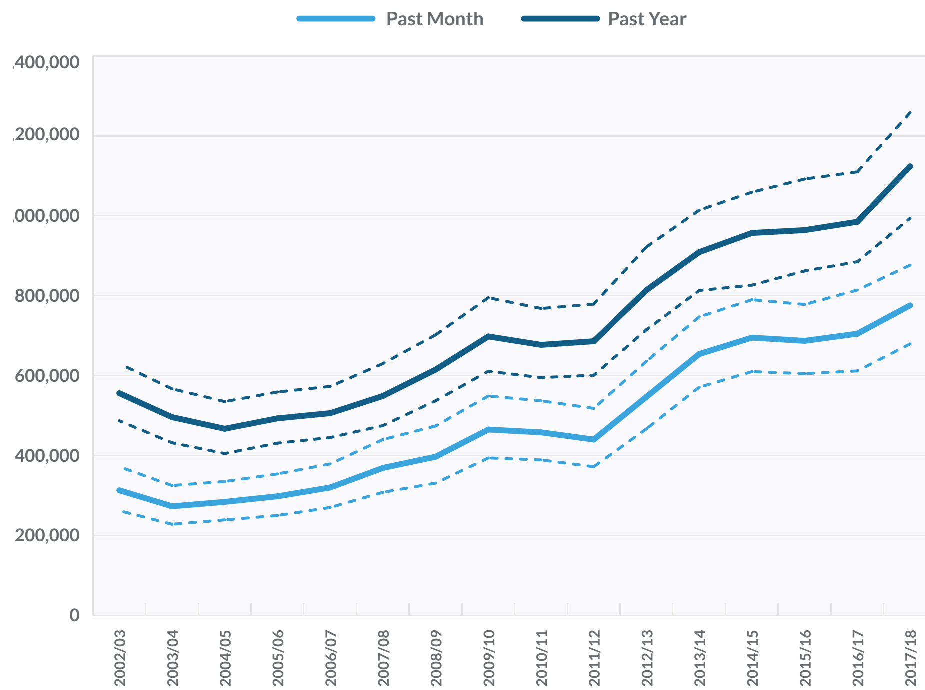
Marijuana Use Prevalence (PART 1)

PAST MONTH AND PAST YEAR MARIJUANA USE AMONG ADULT COLORADO AND US POPULATION, 2019



Source: NSDUH; Study team calculations.

COLORADO PAST-YEAR AND PAST-MONTH ADULT MARIJUANA CONSUMERS

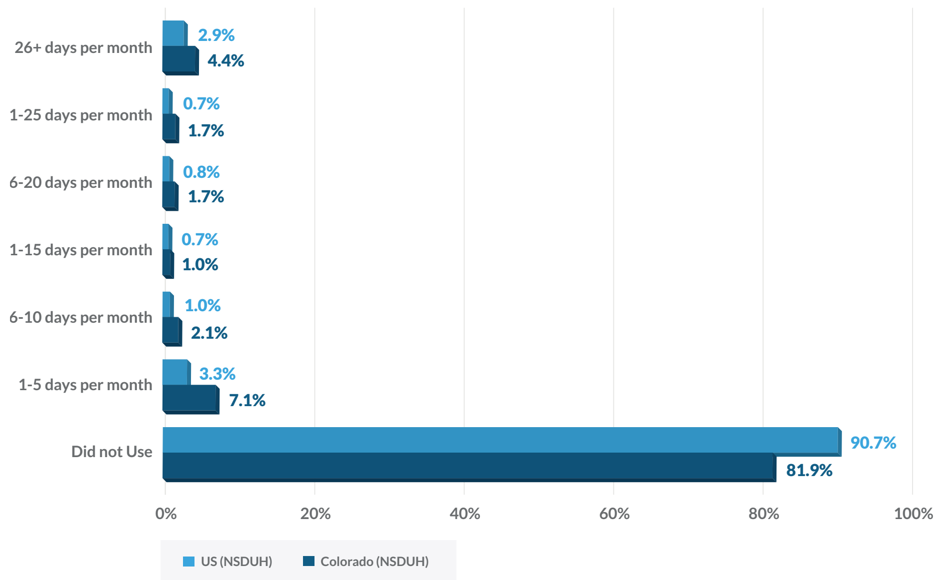


Source: NSDUH; Colorado Demography Office.

- In 2018, an estimated 1,203,253 Colorado residents age 21 and over have consumed marijuana in the past year, which represents about 28.2 percent of the state's total 21 and over population. In comparison, an estimated 15.5 percent of U.S. adults have consumed marijuana in the past year.
- Approximately 827,248, or 19.4 percent of the adult Colorado population consumed marijuana at least once a month in 2018, which is up from 16.6 percent in 2017. In comparison, an estimated 10.2 percent of U.S. adults have consumed marijuana in the past year.

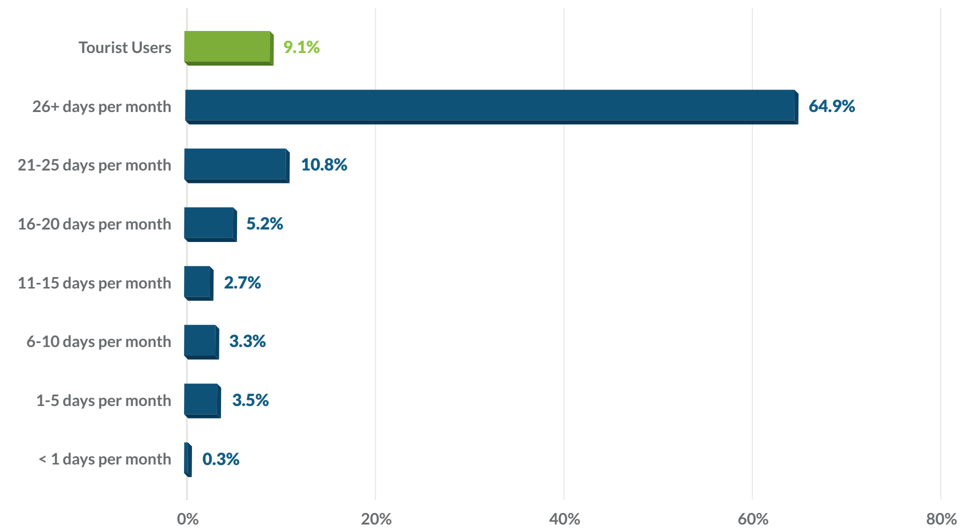
Marijuana Use Prevalence (PART 2)

FREQUENCY OF MARIJUANA USE AMONG COLORADO AND US POPULATION OVER THE PAST MONTH, 2018



Source: NSDUH

SHARE OF MARIJUANA DEMAND, 2019



Sources: NSDUH; Longwoods International; Study team calculations.

- The chart to the left shows the frequency of marijuana use by Colorado and U.S. consumers from SAMHDA NSDUH. Colorado has a much higher share of “heavy” marijuana consumers compared to the national average. An estimated 4.4 percent of Colorado’s population uses marijuana 26 or more days per month, compared to 2.9 percent nationwide.
- The chart to the right shows the share of total marijuana demand by user group. The chart includes tourist demand and resident demand broken out into frequency of use.
- Marijuana users who used 26-31 days per month represented the largest share of demand (64.9 percent), followed by users who used 21-25 days per month (10.8 percent), and tourist users (9.1 percent).

COLORADO RESIDENT AND VISITOR MARIJUANA CONSUMPTION ESTIMATES, 2014-2019 (METRIC TONS)

2018 RESIDENT AND VISITOR MARIJUANA USE DAYS AND CONSUMPTION QUANTITY

	Residents	Visitors	Total
Adult Marijuana Users	1,125,360	5,701,287	**6,826,648**
Annual Marijuana Use Days	149,781,345	20,435,204	**170,216,549**
Annual Demand (Metric Tons)	193.8	20.4	**214.2**
Annual Demand (Range)	(152.1 – 237.8)	(15.3 – 25.5)	**(167.4 – 263.3)**

2019 RESIDENT AND VISITOR MARIJUANA USE DAYS AND CONSUMPTION QUANTITY

	Residents	Visitors	Total
Adult Marijuana Users	1,203,004	5,716,150	**6,919,154**
Annual Marijuana Use Days	157,636,733	20,453,121	**178,089,853**
Annual Demand (Metric Tons)	203.1	20.5	**223.5**
Annual Demand (Range)	(159.2 – 249.4)	(15.3 – 25.6)	**(174.5 – 275)**

- In 2019, we estimate total annual resident to be 203.1 metric tons and total out-of-state visitor consumption is estimated to be 20.5 metric tons for a total consumption of 223.5 metric tons, an increase of 4.3 percent from 2018. Estimates for 2019 were calculated using population estimates from the Colorado Demography office for 2019, out-of-state visitor growth of 1 percent, and the average 5-year marijuana user growth. The increase in consumption can be linked to different factors, including higher consumer prevalence and an increase in the state population.
- In 2019, there were over 1.2 million Colorado residents who were adult marijuana users, representing 157.6 million marijuana use days, an increase of 6.9 percent and 5.2 percent, respectively, from 2018.
- Colorado welcomed approximately 16.8 million out-of-state day visitors and 26.5 million out-of-state business and leisure overnight visitors, with an average length of stay of 4.4 days in 2019. Based on the data, approximately 5.7 million out-of-state visitors had 20.5 million marijuana use days in 2019.

APPENDICES

Appendix A: Consumption Calculation

Available Data

Several data sources were utilized to estimate the resident marijuana consumption in Colorado. The primary source of data on marijuana use patterns comes from two well established and widely utilized surveys, the National Survey on Drug Use and Health (NSDUH) and the Behavioral Risk Factor Surveillance System (BRFSS).

The NSDUH collects representative state-level data on Colorado marijuana use prevalence, as well as estimates of the frequency of use among current marijuana consumers. NSDUH has been administered each year since 2002, allowing for trend and comparative analysis with other states and the U.S.

The Behavioral Risk Factor Surveillance System (BRFSS) is a nationwide telephone survey that collects state-level data regarding health-related risk behaviors. In 2014, the Colorado BRFSS began collecting data about marijuana use, following the legalization of adult use marijuana in Colorado.

The final survey incorporated in this study is the 2014 Colorado Marijuana Use Survey, completed by the study team. This survey asked Colorado marijuana consumers about their frequency of marijuana consumption, as well as the average quantity consumed on a typical use day. In addition to survey data, this study is the first to utilize transaction-level data from the state inventory tracking system.

These sources are combined with state- and county-level population and demographic data from the American Community Survey and the U.S. Census Bureau.

Resident Consumption Estimation:

Total resident consumption in Colorado includes consumption by state residents, and visitors. We consider these market segments separately, first estimating the resident consumption and then the visitor consumption. The total Colorado resident consumption is computed using the following formula:

$$D_r = \sum_{r=1}^{7} \frac{days_t \times g_t \times n_t}{1{,}000{,}000}$$

Where:

D_r = total consumption by adult residents, measured in metric tons of marijuana

$days_t$ = average number of use days per year for each consumer type ‘t’ (1-365)

g_t = average number of grams consumed per day for each consumer type ‘t’

n_t = total number of people included in each marijuana consumer classification ‘t’

This approach is the most straightforward method to estimate resident consumption since estimates are available (or can be calculated) for each component. The number of marijuana consumers is estimated by combining prevalence data from NSDUH with population data from the ACS. NSDUH also provides estimates of marijuana consumers by type, based on their frequency of consumption, in days. Finally, the average daily consumption quantity for each consumer type is estimated using a combination of recent literature and primary survey data from Colorado residents.

Appendix B: Flower Equivalent Calculation

Marijuana consumption, demand and supply quantities are estimated using different methods. Consumption is based upon demographics, consumer responses to surveys, and upon pre-existing literature on use. In other words, it must be estimated. In contrast, legal marijuana supply and demand do not need to be estimated – the measures can be counted using official, verified data. In order to standardize different products back into grams of Flower Equivalent, the study team constructed a generalized equivalency approach. The general formula is written. This approach can be used to convert different products – such as Edibles, Concentrates, or processed Flower, back into the weight of plant material needed to produce the product. The formula is below:

$$W_{it} = f(n, mg, \pi_t, \sigma_t, L, \varphi_i)$$

Where each component is defined as follows:

- W_{it} is the equivalent weight of Flower or Shake/Trim needed as an input for each product type.
- The index "i" is the type of plant material (Flower or Shake/Trim).
- The index "t" denotes the type of non-Flower product (wax, vaporizer cartridge, Infused Edible, Infused non-Edible, etc.) being considered.
- The function, $f(n, mg, \pi, \sigma_t, L, \varphi_i)$, depends upon the following input parameters:
    - n is the number of units produced or sold. For example, n equals 2.7 million units in 2017 in the case of Edible marijuana products for Colorado.
    - mg is the weight of the product, in milligrams or grams, of the product sold. For example, "wax" type Concentrates are typically sold in units of 1 gram. Vaporizer cartridges are sold in units of 250 milligrams or 500 milligrams. For Edibles, this weight is set to be the official THC weight itself (e.g., 10 or 100 milligrams).
- π_t, represents the potency of the product, as a percentage of the product weight, using official laboratory test data. If a Concentrate batch test equals 65 percent, then 0.65 is used for π_t.
- σ_t represents the share of total sales by product type, t. σ_t can be used to compute systemwide supply equivalencies, or it can be omitted from the formula, if only a specific product type is under consideration.
- L, is the loss rate between plant-based input THC and the output THC. The loss rate can vary between 20 percent for Concentrates up to 40 percent for Edibles, if more than one chemical transaction is enacted.
- φ_i is the THC potency of the input material, based upon official test data. For example, average potency testing for Flower in 2017 suggests potency during that year of 19.6 percent combined THC-A and THC. Shake/Trim potencies were 17.2 percent THC, on average, in 2017.

Formula estimates for legal jurisdictions outside of Colorado may differ based upon relative potencies, plant yields, and other factors that affect production.

CONCLUSION

For more information, please visit
www.mpg.consulting
and
www.colorado.edu/business/business-research-division

October 31, 2021

City Council
City of Grand Junction

Dear Mayor and Council Members:

I would like to offer a few additional comments for the work session.

I. Do NOT do a lottery, even a weighted lottery

I have been participating in your process for over a year. I was on the working group and have attended all of your meetings, work sessions and several public gatherings. Overwhelmingly, the public has stated they do not want a lottery of any form and favor a merit system. Those of us from the industry oppose lotteries because they often lead to lawsuits, which delay the awarding of licenses. It's unclear to me why the City Council continues to want a lottery when the public seems opposed to it and the litigation risk is so high.

It may appear counter intuitive but lotteries almost <u>always</u> lead to litigation and merit systems rarely, if ever result in lawsuits. A well crafted merit system is far more defensible and will always yield the most favorable results for all parties. There are numerous examples of lawsuits following lotteries throughout the State and in other States.

II. Do NOT allow multiple applications from the same ownership group

At the last work session, John Shaver indicated that Grand Junction would allow the same ownership group to apply multiple times. I would strongly encourage you NOT to allow this. It will preclude smaller operators like myself and locals from having any chance at getting a license. The large chains from Denver and out of state have a lot of money and will tie up multiple properties and submit many applications to increase their chances of winning a license. It would not surprise me, for example, if one large multi-state operator tied up 30 properties and submitted 30 applications.

You could end up with only one or two large chains, for example, getting all 10 stores in which case you will not have free-market competition. I would encourage you to only allow one application per ownership group to keep things fairer and give the smaller operators and locals a chance.

III. Do NOT allow stacking of leases

Stacking leases is when multiple applicants lease the same property contingent on getting a license. Most municipalities and the State do not allow this because it creates a lot of complexity if two applicants are picked at the same location. I would encourage you to only accept one application per location.

IV. Make sure your merit criteria really differentiate between applicants

The sufficiency criteria enumerated by staff are too low a bar to differentiate between applicants. While these criteria are good to have – and some are prerequisites to even applying, they do not set the bar high enough to cull the field of applicants to those that have the means and experience to operate successfully in Grand Junction – and you want good operators so you get more tax revenues and don't have problems.

Also, the Tax Compliance and Violations and Enforcement criteria only refer to compliance with City taxes and City Code Enforcement officers. If no one is operating in Grand Junction then these criteria don't do anything in the initial application process.

The policy priorities criteria also are not extensive enough to differentiate between applicants. Everyone will say they will provide a living wage, lots of companies can demonstrate community engagement and sustainability is hard to do for a retail store. It's more appropriate for cultivation and manufacturing. LEED certification may only be achievable by those building new buildings, which precludes smaller operators.

I would encourage you to use a merit system more similar to the example submitted by Cindy Sovine in her pubic comments included in the packet or the ones used in Cedaredge, Aurora and other municipalities that had successful processes.

V. State application timing

It is unclear if you intent to require a state licensing application to be submitted at the time of the local license application. Both licenses are required to operate but typically, applicants prefer to apply with the State only after they are awarded a local license so as not to create more work for the MED. It's burdensome to have the MED evaluate numerous applications that will never receive local approval.

Thank you for your consideration of my comments.

Sincerely,

Renée S. Grossman

Janet Harrell

Subject: FW: Marijuana Licensing Recommendations
Attachments: GJ Licensing Recommendations.pdf

From: Liz Zukowski <elisabeth.zukowski@nativerootsdispensary.com>
Sent: Monday, November 1, 2021 9:12 AM
To: Council <council@gjcity.org>
Cc: Public Affairs <publicaffairs@nativerootscannabis.com>
Subject: Marijuana Licensing Recommendations

** - EXTERNAL SENDER. Only open links and attachments from known senders. DO NOT provide sensitive information. Check email for threats per risk training. - **

Good morning Grand Junction City Council Members,

My name is Liz Zukowski, and I'm the Policy and Public Affairs Manager for Native Roots Cannabis Co. I had the pleasure of meeting some of you earlier this month to discuss the Proposed Licensing Guidelines for cities permitting retail marijuana sales developed by the Marijuana Industry Group. Attached to this email are additional recommendations for building Grand Junction's marijuana licensing framework prepared by Native Roots' licensing, legal, and public affairs teams.

Our Director of Public Affairs, Shannon Fender, is the Vice Chair of the Marijuana Industry Group (MIG) and plans to be in attendance at the Council Work Session this evening to support the proposed licensing guidelines provided by Truman Bradley, the Executive Director of MIG, to Grand Junction city officials.

Please let us know if you have any follow-up questions about the recommendations provided. We look forward to working with you to help ensure a successful marijuana sales program for Grand Junction.

Sincerely,
Liz

--
Liz Zukowski (she/her/hers)
Policy & Public Affairs Manager
C: 281-455-9755

NRCC

www.nativerootscannabis.com

NATIVE ROOTS
CANNABIS CO.

MEMORANDUM

To: Grand Junction City Council

From: Native Roots Cannabis Co.

Date: November 1, 2021

Subject: Marijuana Licensing Recommendations

Thank you for the opportunity to provide written comments for Grand Junction's marijuana store licensing framework. In preparation for the City Council Work Session scheduled for the evening of November 1, 2021, Native Roots Cannabis Co., one of Colorado's most successful vertically integrated medical and adult-use cannabis operators, offers the following recommendations for review and inclusion in the regulatory and licensing framework for adult-use (retail) marijuana sales governed by Grand Junction.

Our Director of Public Affairs, Shannon Fender, is the Vice Chair of the Marijuana Industry Group (MIG) and plans to be in attendance to support the proposed licensing guidelines provided by Truman Bradley, the Executive Director of MIG, to Grand Junction city officials.

Licensing Process

We understand the majority of Council prefers a two-phase licensing process in which phase one establishes a high baseline of merit-based criteria for applicants and phase two functions as a weighted lottery for selecting final operators should more applicants meet the criteria in phase one than the number of total licenses to be awarded. Under this structure, we would like to suggest the following for baseline qualifications during Phase 1 and weighted application elements for Phase 2.

- **Phase 1 Merit Criteria:** Setting a high threshold in Phase 1 helps eliminate applicants who cannot demonstrate an ability to operate in a highly regulated environment, thereby limiting the applicant field to professional operators with a desire to invest in the community. At a minimum, applicants should be required to submit the following in Phase 1:
    - Marijuana Enforcement Division's Finding of Suitability
    - Basic Business Information (FEIN; Local Tax ID; Evidence of Insurance)
    - Business Structure Documents (LLC, Corp., Partnership Agreements)
    - Documentation of finances to support the applicant's ability to open and operate a cannabis store
    - Commercial location mortgage, lease, or option to lease
    - Only one application submission per common ownership and operator

- **Phase 2 Weights:** Establishing weights based on the City's guiding principles and policy priorities allows city officials to custom tailor how these new businesses will integrate with and impact the surrounding neighborhoods and the Grand Junction community as a whole.
    - Demonstrable experience operating a retail marijuana business (a different amount of points could be allocated for continued operations for 1-3, 3-5, 5-10, and 10+ years)
    - Human Resources infrastructure
    - Community Engagement Plan which specifically identifies the prior history and future plans to invest in the community, such as membership in the local business chamber, partnership with local non-profits, community service, and more

About Native Roots Cannabis Co.

Native Roots has 20 dispensary locations across Colorado, serving thousands of adult consumers every day and the state's largest number of registered patient members. With over a decade of experience in providing cannabis to patients and adult consumers, Native Roots has won national recognition for its sustainable business practices, retail design, high-quality products, and employment practices. Since 2010, Coloradans have turned to Native Roots as their trusted leader in cannabis for wellness and recreation. Native Roots offers a vast assortment of affordable products and a welcoming environment for cannabis beginners and experts alike. Rooted in the community, we are Colorado's Happy Place.

November 1, 2021

To: Grand Junction City Council
From: Tetra Public Affairs

Re: Marijuana Licensing Recommendations

Dear Council members,

Thank you for the opportunity to provide comment. I have been following the process closely on behalf of clients and due to my personal interest in the community I grew up in adopting a new promising industry model and regulations pertaining to these businesses.

Merit-based applications are the best way to control the number and quality of licenses in Grand Junction. Merit-based licensing creates an environment where qualified, competitive businesses will strive to follow through with positive community impacts and compliant operations. Having established operators in your community allows for a greater level of accountability. Their track record (or lack thereof) is clearly visible when it comes to long-term community investment and partnerships with local non-profit organizations. They are more likely to invest long-term in their businesses, which is ultimately beneficial to the communities where they are located. Opting for merit-based licensing allows you to truly take ownership of what you want your community to look like - and who you would like to be a part of it.

Lotteries, on the other hand, hinder the ability of local governments to ensure only good actors open. This licensing scheme would draw out the timeline and create unnecessary extra steps. The most qualified businesses who are the best fit for the Grand Junction community shouldn't be losing out based on luck. Creating a lottery element is ultimately antithetical to meritocracy. Adams County chose to do a lottery, and only 1 out of 5 of those businesses have kept their licenses. The others have sold them off. Furthermore, accountability is harder to achieve through a lottery system. People will say whatever they need to in order to meet the minimum requirements (compared to a merit system where you can truly vet the company.)

Furthermore, I strongly encourage Council to be incredibly thoughtful and deliberative when it comes to putting an ordinance on paper and to not rush anything - especially if Council does decide to take up a lottery based system - which is not infallible as we may hope. In the city of Broomfield, for example, who is using a weighted lottery system, they have been forced by the court system to cease their licensing process because of a glaring loophole that allowed well funded, notorious actors to exploit that licensing system and unfairly advantage themselves. This is not a position that council should unintentionally put itself in in order to achieve the 2022 Q1 timeline. Instead there should be a more comprehensive stakeholder process with staff that outlines a fair and balanced system that keeps bad actors at bay.

I'd also like to address the question of whether Public Benefit Corporations (PBCs) and nonprofits should be eligible to receive licensure. After speaking with the State's Marijuana Enforcement Division (MED), they have clarified that, while there is not an express prohibition on the ability for a non-profit entity to apply for a finding of suitability, the ability for a non-profit to be found suitable will depend on its formation structure, control, and funding to determine the "Licensing Character or Record" and the "Financial Character or Record" of the applicant. They drafted a memo which clarifies that this scenario likely requires consultation with legal and tax counsel and would depend on the specific facts and circumstances of a submitted application. While the MED strives to be helpful, the scenario of a not-for-profit applicant could contain complicated legal and tax questions which the MED would not be able to advise on. Further, the MED cannot determine whether this type of entity could be permitted without submitted applications for a finding of suitability. In regards to PBCs, allowing them to be eligible would require additional staffing resources to communicate with the Secretary of State or other 3rd party auditing organizations to ensure that these entities are indeed investing their resources as they claim. This is burdensome to existing staff in that they would have to doubly vet the company and the 3rd party organization that audits them. Additionally, it is unclear what the current process for auditing is under the Secretary of State's office and whether they are a reliable resource, for that matter. All this to say, while it may technically be possible for these entities to receive a license, it would likely be a burdensome and confusing process that would cause many unforeseen federal conflicts in tax law due to marijuana's current scheduled status. A more smooth and effective option would be selecting operators with a proven track record of nonprofit partnerships, and a merit-based application system can be the mechanism by which these meaningful partnerships are ensured.

I care very much about how private businesses - particularly those in the cannabis industry who have a larger responsibility to the communities they reside in - can create better outcomes through existing non-profits. Growing up in Grand Junction was a unique privilege, as we had beautiful open spaces to explore and close knit ties with our neighbors. At the same time, I am very aware of the areas our community needs to improve and a lot of that is rooted in systemic social gaps. The best ways to close those gaps are to leverage existing nonprofits with businesses that have the documented history and bandwidth to maximize opportunities.

Sincerely,

Samantha Walsh
Founder
Tetra Public Affairs

www.tetrapublicaffairs.com
303-618-6504

COLORADO
Department of Revenue
Marijuana Enforcement Division

Memo:

Date: October 28, 2021

To: Samantha Walsh

Re: Ability for Public Benefit Corps and/or Non-Profits to Apply for a Finding of Suitability in Accordance with Colorado State Statute and Marijuana Enforcement Division Rules.

As a follow-up to our discussion on October 6, 2021, we are providing some feedback and research regarding your request involving Public Benefit Corporations ("PBC") and Non-Profits and whether there is an ability for each to apply for a finding of suitability in accordance with Marijuana Enforcement Division ("MED") Rules and Colorado statutes. The MED cannot provide legal or tax advice and this response should not be viewed as such. Please note any applications, including for a finding of suitability, would be the required process for a formal response from the MED regarding the ability for a particular applicant to be found suitable, which outcome would be based on statute, rule, and the entirety of the evidence. The rules referenced below can be found here: https://sbg.colorado.gov/med-rules.

Regarding Public Benefit Corps:

- There is no express prohibition on the ability for a PBC to apply for a finding of suitability, as defined by MED Rules.
- It appears the Colorado Secretary of State determines an entity's eligibility and adherence to the PBC program as part of its processes. The MED is not involved in that process nor are PBCs designated by the MED.
- Neither MED Rules nor statute provide for a license type specifically related to PBCs.
- The MED does not and would not "audit" or determine the entity's adherence to the requirements related to a PBC, either at initial application or at renewal as that process is managed by the Colorado Secretary of State.
    - For more information regarding PBCs, please see the FAQ on the website of the Colorado Secretary of State: https://www.sos.state.co.us/pubs/business/FAQs/pbc.html
- An application of a PBC corporation or a PBC limited liability company for a finding of suitability would likely be handled in the same way a non-PBC corporation (or limited liability company) would be, but it may depend on the type of entity of the PBC.
    - Applications for findings of suitability, among others, can be found here: https://sbg.colorado.gov/med-applications-and-forms.
    - A PBC would likely use the "Marijuana Finding of Suitability Application – Owner Entity."

- Per Rule 2-235 (Suitability), the MED is required to review an applicant's "licensing character or record." While a PBCs lack of compliance with the Colorado Secretary of State requirements might be considered as a factor regarding an applicant's "licensing character or record," the MED is not aware whether the Colorado Secretary of State issues a certificate of good standing related to PBC adherence or only for the entity itself.
    - See Rule 2-235(D)(2) "Information Required in Connection with a Request for a Finding of Suitability: Licensing Character or Record"
- A PBC applying for a finding of suitability would need to provide all of the required documentation, per rule and statute, including information related to the PBC's Board of Directors and Executive Officers, who would also need to apply for a finding of suitability and be licensed.
    - See Rule 2-235(A)(1)(a) "Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Not Publicly Traded Corporations: Members of the Board of Directors and Executive Officers of a Regulated Marijuana Business."
- Summary: It appears an entity registered as a PBC could apply for a finding of suitability and be licensed by the MED in accordance with rule and statute. The application would be reviewed based on the totality of the evidence in accordance with rule and statute.

<u>Regarding Non-Profit Entities</u>:

- While there is not an express prohibition on the ability for a non-profit entity to apply for a finding of suitability, the ability for a non-profit to be found suitable will depend on its formation structure, control, and funding to determine the "Licensing Character or Record" and the "Financial Character or Record" of the applicant.
- This scenario likely requires consultation with legal and tax counsel and would depend on the specific facts and circumstances of a submitted application. While the MED strives to be helpful, the scenario of a not-for-profit applicant could contain complicated legal and tax questions which the MED cannot advise on.
- Further, the MED cannot determine whether this type of entity could be permitted without submitted applications for a finding of suitability.
- For the avoidance of doubt, a complete and accurate application for a finding of suitability would be the mechanism for the MED to make a recommendation to the State Licensing Authority for any applicant's licensure in accordance with rule and statute.

This document is not all inclusive and should not be construed as legal or tax advice, or approval on any subject matter. Licensees are responsible for ensuring compliance with requirements in the Colorado Marijuana Code, 44-10-101 et seq., the Colorado Marijuana Rules, 1 CCR 212-3, and Federal or state laws. If you have further questions or would like to discuss, please let us know. Similarly, upon receipt of any applications for a finding of suitability, the MED can provide specific feedback.

Thank you,
The Marijuana Enforcement Division

COLORADO
Department of Revenue
Marijuana Enforcement Division

Grand Junction City Council

Workshop Session

Item #1.b.

Meeting Date: November 1, 2021

Presented By: John Shaver, City Attorney

Department: City Attorney

Submitted By: John Shaver

Information

SUBJECT:

Discussion of a Resolution Authorizing a Memorandum of Understanding Between the Colorado Attorney General and the City of Grand Junction for Distribution of Opioid Settlement Funds and Associated Forms to Initiate Settlements

EXECUTIVE SUMMARY:

The Colorado Attorney General's Office has been leading settlement discussions with defendants who engaged in the manufacture, marketing, promotion, distribution, and/or dispensing of opioids, resulting in an opioid epidemic. To finalize the settlement terms, the Attorney General's Office must determine the parties who will be included in the settlement. This will include the State of Colorado and participating local governments. In order for the City of Grand Junction to be included in the settlement process, the City must sign a Memorandum of Understanding (MOU) stating the City's intention to be a party to the settlement.

This item is intended for discussion by the City Council on whether the City of Grand Junction should participate in the settlement process. Should the Council decide to participate in the process, a resolution will be brought forward to a future Council meeting. If approved, the City will be an active participant in the settlement process and will be able to fully utilize local and regional resources made available as a result of the settlements to address the associated harmful impacts of the opioid epidemic.

BACKGROUND OR DETAILED INFORMATION:

In August 2021, settlements with several major drug manufacturers and distributors were reached as a result of state and local litigation pertaining to the manufacturer and distributor's role in creating the opioid epidemic. This includes opioid distributors McKesson, Cardinal Health, AmerisourceBergen, and opioid manufacturer, Johnson & Johnson. Approximately $21 billion will be paid out by the "Big 3" distributors over 18 years, and Johnson & Johnson will pay a maximum of $5 billion over no more than 9 years. Up to $22.8 billion will be paid to state and local governments across the nation. Colorado's maximum settlement share is expected to be more than $300 million. The Attorney General's Office embarked on a process for determining how funds will be allocated to the State and to local governments, along with the creation of a regional governance model to oversee the distribution of funds.

On August 26, 2021, The Attorney General's Office, in coordination with local government representatives, including city and county attorneys and leaders from the Colorado Municipal League and Colorado Counties, Inc, announced the joint framework for the share and distribution of settlement funds. The Memorandum of Understanding (MOU) provides the framework for releases and settlements with other opioid defendants. Settlement conditions are built around regional collaboration and governance to ensure equitable distribution of funds throughout the state. A summary memo prepared by the Attorney General is attached.

The MOU is designed to ensure the terms are broadly accepted by as many local governments as possible. In order to receive the full settlement payments for Colorado, approximately 95% of local governments must participate in this agreement. This is because the defendants believe a considerable percentage of local participation will significantly reduce the number of remaining plaintiffs. In addition, payments to local governments could be unfavorably impacted by low participation. As a result, it is recommended that local governments participate in the settlement process.

The following four documents need to be signed by local governments to maximize settlement funds:

- The MOU which lays out the allocation of opioid recoveries in the State of Colorado
- The Subdivision Settlement Participation Form releasing claims against Johnson & Johnson by stating they are participating in settlements
- The Subdivision Settlement Participation Form releasing claims against the "Big 3" Distributors by stating they are participating in settlements
- The Colorado Subdivision Escrow Agreement which will ensure legal claims are released only when 95% of participation by local governments has been reached. This is an essential threshold because it determines certain amounts of incentive payments and informs the defendants that the settlements have been widely accepted

List of a few municipalities that have approved, or are currently considering, a resolution to join the settlement agreement:

- City of Commerce City
- City of Arvada
- City of Brighton
- City of Edgewater

- City of Federal Heights

Currently, the Grand Junction Police Department and City Attorney's Office are working with Mesa County on a collaborative approach that will detail how to utilize the settlement funding. While initial conversations have taken place over the past few months, a full strategic meeting with a facilitator will occur on November 18th to help determine how best to leverage costs with long term, sustainable projects that benefit not only Grand Junction, but the western slope as well.

FISCAL IMPACT:

This item is for discussion purposes only.

SUGGESTED ACTION:

Schedule of adoption of a resolution for the November 3, 2021 City Council meeting.

Attachments

1. Colorado Opioids Settlement Memo
2. RES-Opioid Settlement 103121

Colorado Opioids Settlement Memorandum of Understanding Summary

Below is a brief overview of the key provisions outlined in the Colorado Opioids Settlement Memorandum of Understanding ("Colorado MOU"). The Colorado MOU was signed by Colorado Attorney General Phil Weiser on August 26, 2021. In order to receive the full settlement payments for all of Colorado, strong participation by local governments signing on to the Colorado MOU is necessary.

Local governments and the State prepared the Colorado MOU, which prioritizes regionalism, collaboration, and abatement in the sharing and distribution of opioid settlement funds. The points below summarize the framework laid out in the Colorado MOU for distributing and sharing opioids settlement proceeds throughout Colorado. Please see the full Colorado MOU and exhibits for additional details.

While Colorado's local governments are currently being asked to participate in recent settlements with the "Big 3" Distributors (AmerisourceBergen, Cardinal Health, and McKesson) and Johnson & Johnson, the Colorado MOU is intended to apply to all current and future opioid settlements.

A. Allocation of Settlement Funds

The Colorado MOU provides the framework for fairly dividing and sharing settlement proceeds among the state and local governments in Colorado. Under the Colorado MOU, settlement proceeds will be distributed as follows:

1. **10%** directly to the State ("State Share")
2. **20%** directly to Participating Local Governments ("LG Share")
3. **60%** directly to Regions ("Regional Share")
4. **10%** to specific abatement infrastructure projects ("Statewide Infrastructure Share")

Under the Colorado MOU, all settlement funds must be used only for "Approved Purposes," a long and broad list that focuses on abatement strategies. These strategies emphasize prevention, treatment, and harm reduction. Some examples of these strategies include training health care providers on opioid use disorder ("OUD") treatment and responsible prescribing, expanding telehealth and mobile services for treatment, and increasing naloxone and rescue breathing supplies. The list of Approved Purposes is broad enough to be flexible for local communities, while ensuring that settlement funds are used to combat the opioid epidemic. The list of Approved Purposes is attached as Exhibit A to the MOU, unless the term is otherwise defined in a settlement.

B. General Abatement Fund Council

A General Abatement Fund Council (the "Abatement Council"), consisting of representatives appointed by the State and Participating Local Governments, will ensure that the distribution of opioid funds complies with the terms of any settlement and the terms of the Colorado MOU. The Abatement Council will consist of 13 members, seven appointed by the State and six appointed by the Participating Local Governments.

C. Local Government Share (20%)

Twenty percent of settlement funds will be paid directly to Participating Local Governments. Exhibit D to the Colorado MOU lists the percentage to each County Area (that is, the county government plus the municipalities within that county), and Exhibit E further breaks down those allocations to an intracounty level using a default allocation.

The allocations to each County Area in Exhibit D are based on three factors that address critical causes and effects of the opioid crisis: (1) the number of persons suffering opioid use disorder in the county; (2) the number of opioid overdose deaths that occurred in the county; and (3) the amount of opioids distributed within the county.

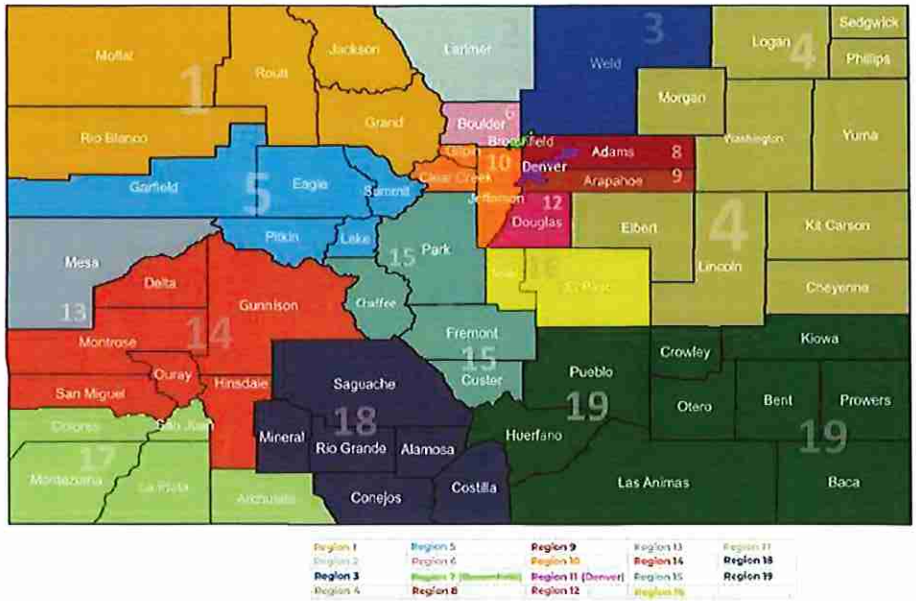
The intracounty allocations in Exhibit E are a default allocation that will apply unless the local governments in a County Area enter into a written agreement providing for a different allocation. These allocations are based on a model, developed by health economist experts, which uses data from the State and Local Government Census on past spending relevant to opioid abatement.

Participating Local Governments will provide data on expenditures from the LG Share to the Abatement Council on an annual basis. If a local government wishes, it may forego its LG Share and direct it to the Regional Share. A local government that chooses not to participate or sign onto the Colorado MOU will not receive funds from the LG Share and the portion of the LG Share that it would have received will instead be re-allocated to the Regional Share for the region where that local government is located.

D. Regional Share (60%)

Sixty percent of settlement funds will be allocated to single- or multi-county regions made up of local governments. These regions were drawn by local governments to make use of existing local infrastructure and relationships. The regional map is shown below, as well as in Exhibit C to the Colorado MOU:

Regions for the distribution of opioid settlement funds



Allocations to regions will be calculated according to the percentages in Exhibit F. Each region will create its own "Regional Council" to determine what Approved Purposes to fund with that region's allocation from the Regional Share. Regional governance models are attached to the Colorado MOU as Exhibit G. Each region may draft its own intra-regional agreements, bylaws, or other governing documents to determine how the Regional Council will operate, subject to the terms of the Colorado MOU. Each Regional Council will provide expenditure data to the Abatement Council on an annual basis.

<u>A local government that chooses not to participate or sign onto the Colorado MOU shall not receive any opioid funds from the Regional Share and shall not participate in the Regional Councils.</u>

E. State Share (10%)

Ten percent of settlement funds will be allocated directly to the State for statewide priorities in combating the opioid epidemic. The State maintains full discretion over distribution of the State Share anywhere within the State of Colorado. On an annual basis, the State shall provide all data on expenditures from the State Share, including administrative costs, to the Abatement Council.

F. Statewide Infrastructure Share (10%)

Ten percent of the settlement funds will be allocated to a Statewide Infrastructure Share to promote capital improvements and provide operational assistance for the development or improvement of infrastructure necessary to abate the opioid crisis anywhere in Colorado.

The Abatement Council shall establish and publish policies and procedures for the distribution and oversight of the Statewide Infrastructure Share, including processes for local governments or regions to apply for opioid funds from the Statewide Infrastructure Share.

G. Attorneys' Fees and Expenses Paid Through a Back-Stop Fund

To a large extent, the national opioid settlements occurred because of the pressure that litigating entities and their counsel exerted on defendants through their lawsuits. The attorneys' fee provision equitably allocates the cost of attorneys' fees, while also allowing non-litigating entities to share in the 25% premium for releases by the litigating entities in the "Big 3" Distributor and Johnson & Johnson settlements. The work that was done by the litigating entities and their law firms in the litigation has substantially contributed to achieving the settlements that are currently being offered and those that are anticipated in the future.

The Attorney General and local governments have agreed to a "Back-Stop Fund" for attorneys' fees and costs. Before a law firm can apply to the Back-Stop Fund, it must first apply to any national common benefit fee fund. The Back-Stop Fund will only be used to pay the difference between what law firms are owed and the amount they have received from a national common benefit fee fund.

Attorneys' fees are limited to 8.7% of the total LG Share and 4.35% of the total Regional Share. No funds will be taken from the Statewide Infrastructure Share or State Share.

A committee will be formed to oversee payments from the Back-Stop Fund. The committee will include litigating and non-litigating entities. Importantly, any excess money in the Back-Stop fund, after attorneys' fees and costs are paid, will go back to the local governments.

H. Participation in the Colorado MOU and Expected Timeline

The MOU was designed to ensure that as many local governments as possible would agree to its terms. Strong participation from local governments is needed to receive the full settlement payments for all of Colorado. On August 26, 2021, Colorado Attorney General Phil Weiser signed the MOU. It is projected that settlement funds from the "Big 3" Distributor/Johnson & Johnson settlements could be made available as soon as July 2022 and will be distributed within Colorado according to the MOU.

Along with the MOU, each local government will need to sign a Subdivision Settlement Participation Form for each of the settlements (the "Big 3" Distributor settlement and the Johnson & Johnson settlement) releasing their legal claims and stating they are participating in the settlements. In addition, a Colorado Subdivision Escrow Agreement should be signed to ensure legal claims are released only when 95% participation by certain local governments has been reached. That 95% participation threshold is important because it triggers certain amounts of incentive payments under the settlements and signals to the settling pharmaceutical companies that the settlements have wide acceptance.

A copy of the MOU with signature pages for each local government, the Subdivision Settlement Participation Forms, and the Colorado Subdivision Escrow Agreement will be provided by the Attorney General's Office. The documents should be executed by the individual or body with authority to do so on behalf of their respective county or municipality and submitted by mail or email to either CCI or CML at the following addresses:

For Counties:	**For Municipalities:**
Colorado Counties, Inc. 800 Grant, Ste 500 Denver, CO 80203 Email: Kyley Burress at KBurress@ccionline.org Katie First at KFirst@ccionline.org	Colorado Municipal League 1144 N. Sherman St. Denver, CO 80203 Email: opioidsettlement@cml.org

If you have any questions, please reach out to Heidi Williams of the Colorado AG's office at Heidi.Williams@coag.gov.

RESOLUTION NO. __-21

RESOLUTION APPROVING THE COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING (MOU) AND AUTHORIZING THE CITY MANAGER TO SIGN AND NAMING AN ABATEMENT FUND COUNCIL DESIGNEE

RECITALS:

Multiple Colorado local governments and the State of Colorado are Plaintiffs in federal litigation against various pharmaceutical manufacturers and distributers ("Defendants") regarding the national opioid crisis. The Plaintiffs and the Defendants have negotiated an agreement ("Settlement") governing the allocation, distribution and expenditure of any settlement proceeds paid in connection with the opioid litigation. In furtherance of the Settlement on August 26, 2021, Colorado Attorney General Philip J. Weiser signed the attached Memorandum of Understanding ("MOU"), together with MOU Exhibits A through G-1, governing the allocation, distribution, expenditure on behalf of the State of Colorado.

Although not a plaintiff, the City Grand Junction by and through the City Council, believes it to be in the best interest of the City and Mesa County to approve the MOU, which will allow settlement proceeds to be used for services, programs and other purposes as set forth in the MOU.

NOW, THEREFORE, BE IT RESOLVED that the Grand Junction City Council hereby formally adopts and approves the COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING (MOU), together with Exhibits A through G-1, as signed and approved on August 26, 2021 by Colorado Attorney General Philip J. Weiser, and with the Council's approval, Grand Junction shall become a party to the MOU. Furthermore, the City Manager, with the concurrence of the City Attorney, is hereby authorized to sign the MOU and otherwise execute any document(s) necessary to formalize this approval. ___________________ is and shall be the City's designee for appointment to the Abatement Council for Region 13.

C.B. McDaniel
City Council President

ATTEST:

Wanda Winkelmann
City Clerk