Grand Junction City Council

Regular Session

Meeting Date: January 20, 2021
Presented By: Lance Gloss, Senior Planner
Department: Community Development
Submitted By: Lance Gloss, Senior Planner

Information

SUBJECT:
A Resolution Setting of a Rate of Taxation for Marijuana Related Businesses

RECOMMENDATION:
Staff recommends approval of this request.

EXECUTIVE SUMMARY:
A draft of ballot language regarding marijuana businesses as been prepared in anticipation of the April 6, 2021 election. Specifically, the Council is presented with draft language for two ballot measures: 1) repeal of the 2011 voter-approved moratorium on marijuana businesses in the City; 2) establishment of authority to impose an additional sales and use tax and an excise tax on marijuana businesses in the City. The two ballot questions do not contain a detailed regulatory framework for the regulation of marijuana businesses; rather, a ‘yes’ vote on the two questions would be the first step to City Council consideration and possible enactment of Ordinances establishing a detailed framework for licensing, enforcement, land-use, and mitigation of negative impacts for marijuana businesses. Such Ordinances are being developed by staff and are anticipated to be available for City Council consideration prior to the election. The draft ballot questions propose to establish sales and use tax rates that are consistent with peer communities, set an excise tax as authorized by State law and assign anticipated revenues to the highest priorities of the current Parks, Recreation, and Open Space plan as well as to enforcement needs related to marijuana.

Please note that the ballot questions related to marijuana comprise two separate measures that, for procedural purposes, must be referred to the ballot by separate motions. Thus, this staff report is designed to provide information pertaining to this item and to item 5.a.i., immediately to follow. Please refer to the suggested motion
pertaining specifically to the setting of a rate of taxation for marijuana related businesses below.

**BACKGROUND OR DETAILED INFORMATION:**

Marijuana businesses, including the cultivation, processing, and sale of marijuana, may be permitted by local jurisdictions in the State of Colorado subject to the Colorado Marijuana Code in the Colorado Revised Statutes (C.R.S. 44-10-101, et. seq.). Any such businesses require dual licensing, with a license issued by the State and with another license issued by the local jurisdiction. No marijuana business, except for the narrowly-defined medical marijuana caregiver businesses permitted as a right under the Colorado Constitution, may operate without dual licensing. At present, the operation of marijuana businesses in the City of Grand Junction is prohibited by multiple mechanisms, including a 2011 voter-approved moratorium on the operation of medical marijuana businesses. Referred Measure A of April 2011, which established this moratorium, also revised the Grand Junction Municipal Code (hereafter, Code) to identify marijuana businesses (medical and retail/recreational) as explicitly disallowed in all City zone districts. Thus, in order for the Council to contemplate a future Ordinance revising the Code to allow for marijuana businesses in certain zone districts and subject to further regulation, a question must again be raised to the voters regarding the repeal of the 2011 decision. To this end, one of the two attached ballot questions asks about this repeal.

Likewise, per the Colorado Constitution and specifically under the restrictions of the Taxpayer Bill of Rights (TABOR), taxes increases and the imposition of new taxes require that a vote of the people be carried out in the relevant jurisdiction. An associated requirement establishes a revenue cap, requiring that an estimate of first year tax revenues derived from the new or increased tax be included in the ballot question regarding the new or increased tax. To this end, one of the two attached draft ballot questions identifies initial tax rates and maximum taxation authority, along with an anticipated total revenue of two million nine hundred thousand dollars ($2,900,000) in the first year. Specifically, the proposed special marijuana sales tax rate is 5% initially with taxation authority up to 15%, and the proposed special marijuana excise tax rate is 5% initially with authority up to 10%, as determined by applicable law.

These questions are the product of an extensive process consisting of research, public outreach, comparison with peer communities, and discussion by public officials including the City Council and Planning Commission. Members of the City Council have convened five times on the topic of marijuana businesses in 2020 as summarized below:

<table>
<thead>
<tr>
<th>Date</th>
<th>Venue</th>
<th>Topics of Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 13, 2020</td>
<td>City Council Workshop</td>
<td>History of the legalization of marijuana; enforcement issues; tax</td>
</tr>
<tr>
<td>Date</td>
<td>Event Type</td>
<td>Topic</td>
</tr>
<tr>
<td>-----------------------</td>
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<tr>
<td>September 14, 2020</td>
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<td>City Council Workshop</td>
<td>Update on Working Group meetings; discussion on the moratorium; possible number of businesses; rate of tax; potential uses of tax revenue.</td>
</tr>
<tr>
<td>December 17, 2020</td>
<td>Joint City Council – Planning Commission Workshop</td>
<td>Marijuana license types; proposed sales and excise tax rates; use of anticipated revenue; timing for development of regulatory structure.</td>
</tr>
<tr>
<td>January 4, 2020</td>
<td>City Council Workshop</td>
<td>Determination to hear item on January 20, 2021; discussion regarding timing and manner of Ordinance development.</td>
</tr>
</tbody>
</table>

As noted in the table above, at the direction of City Council at the September 14 workshop, staff convened, a community Marijuana Working Group which assembled for eight sessions and delivers the attached recommendation to Council. That working group, which has contributed substantially to the development of the attached draft ballot questions and to the associated ordinances (currently in advanced stages of development), included a diverse membership with representation from local residents, local business leaders, local institutional leaders, local faith and community leaders, individuals with various technical expertise, and local and regional leaders in the marijuana and hemp industries. This group was supported by staff and guest experts with a range of experience and expertise, and developed a detailed recommendation as found in the attachments to this staff report.

Though the attached ballot questions do not specify which types of marijuana revenues; possible ballot question in April 2021.
businesses, the City Council has consistently expressed the intent to limit the operation of marijuana businesses to certain license types and to apply further regulations to those businesses by ordinance. Specifically, the City Council has expressed interest in the permitting of marijuana stores subject to restrictions on the time, place, and manner of operations including, but not limited to, the imposition of a specified limit on the number of stores to be licensed in City limits at any one time. The City Council has also expressed interest in the permitting of marijuana products manufacturers, likewise subject to detailed regulations. The Council has expressed concern about—and identified the need to further investigate—marijuana cultivation businesses, and has specifically identified the likelihood of strong odor as a problematic factor related to these particular businesses due to the nature of their operations. Marijuana testing facilities are already permitted in City limits. Marijuana transporter licenses are also be contemplated by the City Council, insofar as these are deemed necessary for the viable operation of the aforementioned business types. Each of these license types may be issued at the State and local level as medical or retail (i.e. recreational) licenses, and the City Council has, to date, contemplated both medical and retail licenses. The Council is anticipated to hear a first reading of ordinances that engage with these specific regulations.

A further element of the draft ballot questions under consideration herein is the usage of anticipated sales tax revenues. After detailed discussion of alternatives by City Council, Planning Commission, the community Marijuana Working Group, and City staff, the question as currently formulated would divert new tax revenues primarily to the priorities of the adopted Parks, Recreation, and Open Space (PROS) plan. A second use of revenues identified in the question as drafted is the enforcement of marijuana regulations, including the monitoring and enforcement of any legal marijuana businesses as would result from a ‘yes’ vote and subsequent ordinances, as well as endeavoring to prevent unlawful marijuana use. This is anticipated to include, but is not limited to, the funding of an additional sworn officer position and associated equipment in the Grand Junction Police Department, as the efforts of that officer would be dedicated to the enforcement of marijuana regulations.

Further detail regarding the specific concerns, regulations, and recommendations relevant to marijuana businesses can be found in prior staff reports and other materials attached herein.

**FISCAL IMPACT:**

This action does not have direct fiscal impact. However if the voters authorize the taxation of regulated marijuana, the estimated annual revenue is $2.3 million. Under TABOR, the City is required to provide an estimate of the first fiscal year of revenues in the ballot question. If actual first year revenues exceed that amount then it triggers a refund of those excess funds. Therefore when providing the estimate for the purposes of the ballot question, staff allowed an estimation margin resulting in the total estimation of first year revenue at $2.9 million.

**SUGGESTED MOTION:**
I move to (adopt/deny) Resolution No. 09-21, a resolution setting a title and submitting to the electorate on April 6, 2021 a measure concerning the taxation of the sale of regulated marijuana and marijuana products, regulated marijuana product manufacturing and cultivation of marijuana for regulated sale to pay for parks, recreation, open space, trails and enforcement purposes and to retain and spend revenues as defined by Article X, Section 20 of the Colorado Constitution for payment therefor and providing other details relating thereto.

**Attachments**

1. Memo Summarizing Legal Background for Marijuana in GJ
2. Jan 4, 2020 Marijuana Staff Report
3. Dec 17, 2020 Marijuana Staff Report
4. Nov 30, 2020 Marijuana Staff Report
5. Sept 17, 2020 Marijuana Staff Report
6. Sept 14, 2020 Marijuana Staff Report
7. Marijuana Working Group Cumulative Recommendation
8. Public Comment Received - Barbara Traylor Smith
9. Public Comment Received - Renee Grossman
10. BQ-Marijuana Draft Ballot Language - 011521FINAL
Memorandum

TO: Steve Moore & Lance Gloss, Co-Chairs
CC: Marijuana Working Group
FROM: Staff Attorney DeLayne Merritt
City Attorney John Shaver
DATE: November 12, 2020
RE: Federal, State and Local Marijuana Law/Regulation Timeline

This memorandum is to provide the City's Marijuana Working Group with a summary of the timeline of Federal, State and Local marijuana regulations. Additionally, the memo includes some information of “next steps” in anticipation of a Spring 2021 election.

The use and possession of marijuana remain illegal under Federal law. Marijuana is categorized as a Schedule 1 controlled substance under the Controlled Substance Act. Thus, knowing or intentional marijuana possession is illegal, even if an individual has no intent to manufacture, distribute, or dispense marijuana.

On November 7, 2000, Colorado voters approved Amendment 20 (known as the Colorado Medical Use of Marijuana Initiative or Initiative 20.) Amendment 20 to the State Constitution allows the use of marijuana in the State for approved patients with written medical consent. Amendment 20 allows the possession of up to 2 ounces of medical marijuana and cultivation of no more than six marijuana plants (three flowering plants) at a time for patients.

On November 16, 2009, City Council, as an exercise of police powers, adopted Ordinance 4392 which declared a twelve-month moratorium on the licensing, permitting and operation of marijuana businesses in the City and provided penalties for any such violation. The Ordinance applied to any person or entity applying to function, do business or hold itself out as a medical marijuana dispensary in the City of Grand Junction, regardless of the person, entity, or zoning. Thus, the moratorium applies to “primary caregivers”. With the adoption of Ordinance 4392, City Council was balancing the rights of those members of the community that are suffering from debilitating medical conditions with the need to regulate the number, location and safety practices for businesses supplying medical marijuana.

On June 7, 2010, Governor Ritter signed into law House Bill 10-1284 and Senate Bill 10-109 which, among other things, authorized the City to adopt an ordinance to license, regulate or prohibit the cultivation and/or sale of medical marijuana (C.R.S. 12-43.3-103(2)). The law also allowed a city to vote, either by a majority of the registered electors
or a majority of the City Council, to prohibit the operation of medical marijuana centers, optional premises cultivation operations and medical marijuana infused products manufacturers.

On October 4, 2010, City Council adopted Ordinance 4437 which prohibited the operation of medical marijuana businesses and amended the Grand Junction Municipal Code by adding Section 5.14.010 which prohibits certain uses relating to marijuana. The Ordinance extended the moratorium established by Ordinance 4392 to January 1, 2011. Prior to Ordinance 4437 becoming effective, a protest petition was filed and found to be sufficient. Thus, Ordinance 4437 was suspended from taking effect, including the provision regarding the extension of the moratorium.

Resolution 31-10 was adopted by City Council on July 19, 2010, providing notice that that a question may be included on the November 2, 2010 ballot regarding medical marijuana businesses as provided in House Bill 1284 which is now codified as the Colorado Medical Marijuana Code, 12-43.3-101 et. seq.

On October 13, 2010, City Council adopted Ordinance 4446 which extended the moratorium on commercial medical marijuana centers and facilities imposed by Ordinance 4392 to July 1, 2011.

On January 5, 2011, City Council adopted Resolution 04-11 which set a ballot title and submitted to the electorate on April 5, 2011 a measure regarding medical marijuana in the City. On January 21, 2011, City Council adopted Resolution 09-11 which set forth the notice of election for the regular municipal election to be held April 5, 2011. Measure A was approved with 7802 in favor and 5703 against.

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

Amendment 64 did not provide any restrictions on the quantity of marijuana products retail stores can stock. It also did not require Colorado residency as a prerequisite for the purchase of marijuana. No restrictions were placed on where individuals could grow marijuana plants. Amendment 64 also did not confer rights for businesses and/or commercial operations involving marijuana. It did, however, require the State to develop and adopt laws, regulations, and processes in the concerning marijuana.

Amendment 64 conflicts with Federal law and although it was passed by Colorado voters, it remains illegal under Federal law to produce and/or distribute marijuana. As a matter of law, property and assets earned by or associated with marijuana establishments would be subject to federal asset seizure laws.
On February 6, 2013 City Council approved Resolution 07-13 adopting marijuana policies for the City and restrictions for persons or entities from applying to function, do business, or hold itself out as a marijuana facility, business or operation of any sort in the City limits. The restrictions applied to all zone districts and any special permits, including home occupation. The resolution directed the City Manager to not accept any land use or development application(s) or issue any permits for use or development of any land, business, activity or action that is a marijuana facility and/or a marijuana operation or reasonably may be construed as the same or any form of the same. In addition, it also supports investigation and prosecution of any persons and/or entities that engage in or attempt to engage in the growth, sale, trade and/or consumption of marijuana in any manner that is, as stated in Amendment 64, conducted openly and publicly or in any manner that endangers others. Lastly, it provided that no sales tax licenses for any use, business or activity that is known as, functions as or may reasonably be construed as a marijuana facility or operation.

On September 4, 2013, City Council adopted Ordinance 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores. It also amended added Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibit certain uses relating to marijuana. City Council determined that it was in the best interests of the citizens of Grand Junction to prohibit certain marijuana related commercial and industrial activities and enterprises as the primary and secondary effects of cultivation and dispensing of marijuana and/or the manufacturing and sale of marijuana infused products, those businesses, operations and land uses have been found to adversely affect the health, safety and welfare of the City and its inhabitants.

In late 2015, the City, Mesa County and Colorado Mesa University, by and through the efforts of the Grand Junction Economic Partnership (GJEP), were successful in establishing the Colorado Jumpstart business development program. In January of 2016, the State of Colorado awarded the first Jumpstart incentive to four businesses in Grand Junction that applied for the incentives. One of the businesses planned to develop a laboratory and deploy its advanced analytical processes for genetic research and its ability to mark/trace chemical properties of agricultural products. One of the products to be tested was projected to be marijuana.

As a result of the Jumpstart incentives, on October 5, 2016, City Council passed ordinance No. 4722 which amended Ordinance 4599 and Section 21.04.010 of the Grand Junction Municipal Code to allow marijuana testing facilities in the City of Grand Junction. The amendment to the Code was to clarify that marijuana testing facilities would be included in the general use category of “Industrial Services, Contractors and Trade Shops and Oil and Gas Support Operations” for land use purposes.

Currently, City of Grand Junction staff and community members, including the Marijuana Working Group, are researching, reviewing, discussing and preparing a recommendation to assist City staff in proposing an ordinance on the taxation, permitting and regulation of marijuana for the City Council’s consideration for a Spring 2021 ballot measure. The
ballot measure would be a proposal to repeal the 2011 moratorium on marijuana businesses and establish a rate of taxation.

City Council is scheduled to discuss the ballot language at a workshop on December 14, 2020. A call for a Special Election is anticipated for December 16, 2020. City Council is projected to review and vote for/against adoption of the ballot language on January 26, 2021. An intergovernmental agreement between the City and Mesa County for the regular municipal election must occur on or before January 26, 2021 which is 70 days before election. The ballot certification must occur 60 days before the election, which date is February 5, 2021. An ordinance regarding business licensing, land-use permitting, and enforcement related to marijuana businesses will be proposed subsequent to the passage of the ballot measure.
Grand Junction City Council

Workshop Session

Item #1.d.

**Meeting Date:** January 4, 2021  
**Presented By:** Lance Gloss, Senior Planner  
**Department:** City Manager's Office  
**Submitted By:** Lance Gloss, Senior Planner

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**Information**

**SUBJECT:**
Discussion and Possible Direction Regarding a Potential Marijuana Ballot Question

**EXECUTIVE SUMMARY:**

The City Council continues its discussion on ballot language regarding marijuana businesses in anticipation of the April 6, 2021 election. Specifically, the Council is presented with draft language for two ballot measures: 1) repeal of the 2011 voter-approved moratorium on marijuana businesses in the City; 2) establishment of a sales and/or excise tax authority with affiliated provisions related to TABOR compliance.

A limited discussion of revenue allocation is necessary to establish ballot language for the tax question; however, a detailed analysis of revenue allocation may be reserved for further discussions related to debt for specific expenditures.

**BACKGROUND OR DETAILED INFORMATION:**

**BACKGROUND**

Members of the City Council have convened five times in 2020 on the topic of marijuana businesses as summarized below:

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<td>Date</td>
<td>Event</td>
<td>Description</td>
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<td>--------------------------------------------</td>
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As noted in the table above, at the direction of City Council at the September 14 workshop, staff convened a community Marijuana Working Group which assembled for eight sessions and delivers the attached recommendation to Council.

In order to proceed, as discussed at the December 17, 2020 Joint City Council-Planning Commission Workshop, two primary steps have been identified. The first is for the City Council to consider two questions for presentation to the April 6, 2021 ballot. The first question concerns repeal of the 2011 voter-approved moratorium on marijuana businesses in the City; the second concerns establishment of a sales and/or excise tax authority with affiliated provisions related to TABOR compliance. In order to be considered for the April 6, 2021 ballot, the City Council must hear the resolution presenting the question no later than at their February 3, 2021 regular public hearing as the ballot language must be certified by February 5, 2021. Staff has assembled documentation and recommendations that can facilitate the finalization of a pair of ballot questions in the timely manner necessary to bring the questions to April 6, particularly considering the seemingly preferred direction by City Council that the ballot questions be broad in scope and, in this way, retain the maximum viable amount of flexibility for the second identified step in this process. The most substantive decisions that must be made in preparing the ballot questions are the tax rate or tax authority, as well as whether—and if so, to what specific uses—tax revenues should be earmarked.

The second identified step consists of considering the detailed regulatory options for the wide scope of marijuana-related businesses. This can be accomplished over a longer period and may be well suited for initial consideration by the Planning Commission, as was discussed by those who participated at the December 17, 2020 Joint City Council-Planning Commission Workshop. Once refined, and if retained for
consideration, these positions would then be reflected in separate ordinances. Such ordinances would accommodate the vast majority of the regulatory specifics for marijuana businesses in the City, thereby relieving decision-makers from that responsibility in the shorter period of time required to present questions for the April 6, 2021 ballot.

ANALYSIS

The two draft ballot questions presented to City Council as attachments to this staff report accomplish distinct ends: the first would repeal 2011 voter-approved moratorium on marijuana businesses in the City; the second concerns establishment of a sales and/or excise tax authority with affiliated provisions related to TABOR compliance. The question repealing the prior moratorium on marijuana businesses, as drafted, has no specific relation to the second question on taxation, with the exception that its passage is contingent upon the passage of the tax question. That is, should the former pass, but not the latter, the former shall not go into effect.

The question on taxation, as drafted, provides for the Council to set an initial tax rate, and to retain taxation authority up to 15%, should the City Council seek to raise or lower the tax rate in the future. The Council has previously been provided data related to the taxation of marijuana; in this packet, the Council is provided with detailed taxation information for four communities with shared characteristics to Grand Junction, as well as a survey of marijuana sales and excise tax rates in all Colorado municipalities. As reflected in those documents, communities throughout the state elect to tax marijuana at widely varying rates, with some communities charging no additional local sales tax on marijuana sales, and others charging as much as 10% additional sales tax on marijuana products at the local level. Sales tax rates in the vicinity of 5%, often reserving tax authority of up to 10% or 15%, are common.

A local sales tax rate is not the only additional tax placed on marijuana, and those other taxes will be applied even without a special tax rate being assigned to marijuana by voters. The City will automatically apply its base City of Grand Junction Sales Tax of 3.25% and the Mesa County Sales Tax of 2.37%. An additional 15% State Marijuana Sales Tax (which absorbs the baseline State of Colorado Sales Tax of 2.90%) will be applied automatically to retail marijuana sales while a 15% State Marijuana Excise Tax will be applied automatically to any unprocessed or “cultivated” marijuana. 10% of the 15% state sales tax is subsequently shared back to the municipality. Thus, it is possible to accrue substantial revenue through the taxation of marijuana without the application of a special municipal sales tax on marijuana.

This cumulative taxation also has an impact on competitiveness. For example, were the City of Grand Junction to set a special marijuana sales tax rate at 5%, the cumulative sales tax including other state and local sales taxes would come to
25.62%. By contrast, the cumulative rate today in De Beque is 24.37% (where the local special marijuana sales tax rate is effectively 5%) and the cumulative rate in Parachute is 19.75% (where the local special marijuana sales tax rate is 0%). That is, even if the City of Grand Junction were to set 0% special marijuana sales tax rate, for a cumulative sales tax of 20.62%, the rate in Parachute would remain lower owing to their lower base tax rate.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Special Marijuana Sales Tax Rate</th>
<th>Special Marijuana Excise Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glenwood Springs</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Ft. Collins</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Longmont</td>
<td>3.5%</td>
<td>3% *</td>
</tr>
<tr>
<td>Durango*</td>
<td>3%</td>
<td>0% *</td>
</tr>
<tr>
<td>De Beque</td>
<td>5%</td>
<td>5% ***</td>
</tr>
<tr>
<td>Palisade</td>
<td>5% and above**</td>
<td>5%</td>
</tr>
<tr>
<td>Parachute</td>
<td>0%</td>
<td>5%</td>
</tr>
</tbody>
</table>

*Cultivation licenses not issued in this jurisdiction.
** Palisade charges an occupation tax of $5.00 for each sales transaction that is less than $100, $10.00 for each sales transaction between $100.00 and $500.00 and $25.00 for each sales transaction of $500.00 or more. Thus the rate on any given purchase ranges from 5% at minimum to upwards of 100% for the smallest purchases.
*** DeBeque sales tax is, in technical terms, an excise tax on the sale of products.

The chart above provides a survey of sales and excise tax rates for proximate and comparable communities. Further, more detailed information for four comparable communities—Glenwood Springs, Longmont, Boulder, and Fort Collins—can be found in Exhibit B, with certain highlights being as follows. Of those four communities, the special marijuana sales tax rate ranges from 0% from 5%, and the total revenue from that special marijuana sales tax, with the base city sales tax ranging from 3.53% to 3.86% in those communities. The cumulative annual sales tax revenue from marijuana in these cities ranges from $584,293 to $5,727,002. It should be noted that all of these communities have different numbers of storefronts, ranging from 4 (Longmont) to 13 (Fort Collins).

In addition to evaluating the range of options for setting a sales tax rate, the Council may also provide guidance during this workshop on the allocation of revenues. The details of allocation may, to some extent, be reserved for a further question related to debt/bonding for a specific expenditure, such as the oft-discussed community center identified by the PROS Master Plan currently under Council’s consideration. However, the draft ballot language presented to Council in this packet does not require that level of detail on the actual cost and debt structure associated with such a specific expenditure. Rather, the draft language included herein sets a broader mandate to allocate funds to the highest priority parks and recreation expenses, as identified in the PROS Master Plan and as would likely include a community center, among other
possible expenses. Council may also consider allocation of funds to enforcement, housing, education, and other items identified by the public and by the community Marijuana Working Group, or items not identified in public processes to date. The structure of the ballot question could remain largely unchanged, were the Council to call for the substitution of another item for the parks and recreation allocation drafted herein.

**FISCAL IMPACT:**

The fiscal impact of marijuana businesses will depend upon the adopted tax rate.

**SUGGESTED ACTION:**

Staff recommends a City Council discussion and possible direction regarding questions on the April ballot that would 1) repeal the moratorium on marijuana businesses and 2) establish a tax for marijuana related sales.

**Attachments**

1. Draft Ballot Language Repealing Referred Measure A (2011)
2. Draft Ballot Language Pertaining to Taxation of Marijuana
3. Recommendations of the Marijuana Working Group
5. Detailed Tax Information - Peer Communities
6. Memorandum - Regulation of Marijuana Businesses and Request to Refer a Question to the April 2020 Ballot
7. Marijuana Tax Rates of All Colorado Municipalities
Grand Junction City Council

Workshop Session

Meeting Date: December 17, 2020
Presented By: Lance Gloss, Senior Planner
Department: Community Development
Submitted By: Lance Gloss, Senior Planner

Information

SUBJECT:
Regulation and Taxation of Marijuana

EXECUTIVE SUMMARY:
The City Council has directed staff to explore regulatory approaches to marijuana businesses in advance of a potential ballot question in April asking the electorate approve/disapprove marijuana related businesses within the City. Staff has engaged in research and outreach and has subsequently produced a large body of research and input on this topic. This staff report covers a range of topics including licensing, taxation, ballot language, land-use, and enforcement related to marijuana businesses. At the workshop, staff will be seeking specific direction on the following topics:

1) the license types that the Council would refer to the ballot;

2) the preferred approach to the development of proposed sales and excise tax rates;

3) the potential for earmarking anticipated revenues; and

4) the preferred timing for the development by ordinance of the regulatory structure for any marijuana related business types considered for the ballot.

BACKGROUND OR DETAILED INFORMATION:

Background

Pursuant to State law, the City Council has directed staff to explore the licensing of marijuana businesses in Grand Junction. A staff team and a community working group
of approximately 20 members has engaged in the topic since September. Previous staff updates to City Council included an overview of research and the outreach process, as well as a summary of policy tools.

Staff has identified a two-part regulatory approach as the preferred option. This approach consists of a ballot measure(s), anticipated for April 2020 pending direction from City Council, and subsequent review and approval of a regulatory ordinance(s). A ballot measure(s) would bring to the voters the question of a repeal of the 2011 voter-approved moratorium on marijuana businesses. This moratorium was established by Measure A of the April 5, 2011 ballot. It specifically posed the question to the voters whether the City of Grand Junction should prohibit the operation of medical marijuana businesses and amend the Grand Junction Municipal Code by adding a new section prohibiting certain uses of marijuana. Measure A was approved with 7802 in favor and 5703 against.

A ballot question would set a sales and/or excise tax rate as required by TABOR. Below is a more detailed review of specific factors related to licensing, taxation, ballot language, land-use, and enforcement.

Moreover, any municipality considering regulations for marijuana businesses must know that a certain level of inflexible regulatory oversight is conducted by the Marijuana Enforcement Division (MED). The MED issues state-level licenses and maintains the METRC monitoring system for the licensing of individual employees of marijuana businesses and the seed-to-sale tracking of product, among other services. The MED is aware of, and has participated in, the research and outreach being conducted in the City at this time.

The Marijuana Working Group ands staff anticipates bringing a significant amount of work from the Working Group by December 17th.

**License Types**

A meaningful discussion of regulatory options and taxation must be informed by a firm understanding of the business types that comprise the regulated marijuana industry. Each business type requires a different license type, which must be issued by both the state and the local jurisdiction. Each license type may be issued as either a medical or retail (i.e. recreational) license. A municipality may allow only medical, only retail, both, or a mix of both for different license types.

*Stores* - It is staff's opinion that the general perception of the marijuana business issue focuses primarily on the sale of marijuana. The marijuana store license, which leads to the establishment of a physical store or dispensary location, may sell marijuana to persons over the age of 21 or, in the case of medical stores, to any person holding a
valid medical marijuana license. An individual cannot purchase more than 1 ounce of retail marijuana or 2 ounces of medical marijuana. A store may also sell marijuana concentrates, infused products (edibles), ointments, balms, lotions and other topical products. A store may only operate between the hours of 8 a.m. – midnight, or as further restricted by the municipality. This sale or recreational product is subject to a state sales tax of 15% at the point of sale and may be subject to additional local sales tax up to 15%. Medical sales are not subject to additional state sales tax and additional local sales tax is prohibited; only the 2.9% generic state sales tax applies to medical sales.

Generally, Colorado communities that allow stores do so in a range of commercial and/or business zone districts, and occasionally also in industrial zone districts. Stores are often subject to “buffering” standards that separate stores from other stores and stores from sensitive land-uses such as parks, daycare facilities, schools, and places of worship. They may also be subject to Conditional Use Permit or other similar processes. Odor and signage are also subject to further regulation in most communities.

Cultivation - Cultivation licenses are granted to entities that cultivate, prepare, and package marijuana and transfer to marijuana to sales businesses, research facilities, and some other license types, but not to consumers. Marijuana cultivated by a retail cultivation license can only be transferred to other retail licenses, and vice versa for medical cultivation. Outdoor cultivation of marijuana poses notable risks to outdoor cultivation of hemp and produces substantial odor during growing and harvest season and, as such, is often restricted to indoor settings. These operations often occupy industrial facilities exceeding 20,000 square feet, but may also be smaller. These facilities are typically limited to industrial zone districts, and may be subject to buffering limitations.

They typically require substantial HVAC, irrigation, and electrical facilities, and tend to employ a relatively large number of employees for the tending of plants and the trimming and packaging of their raw product. This raw product is subject to a state excise tax of 15% at the time of transfer and may be subject to additional local excise tax up to 15%. Note that these facilities are distinct from similar activities protected by the Colorado Constitution, such as the personal cultivation of up to six plants at a private residence and the caregiver model for medical cultivation.

Products Manufacturers - These businesses manufacture marijuana products that are intended for consumption in concentrated form for smoking, or for consumption other than by smoking, such as edible products, ointments, and tinctures. These businesses may vary widely in terms of their products and processes, and they may include hazardous uses which in Grand Junction would currently require a Conditional Use Permit requirement. Medical products manufacturers may transact only with medical
marijuana cultivation and sales licenses, and vice versa for retail. These businesses also generate a substantial number of jobs for processing and packaging activities, depending on the type of product manufactured and the degree of automation. There is no sales or excise tax on manufactured products, however a value-added tax, albeit rare, could be enacted.

**Hospitality Business Licenses** - Marijuana Hospitality Businesses are licensed to allow consumption of marijuana products on-site. These may be fixed locations that sell marijuana for on-site consumption, or that allow consumers to bring their own items for consumption. They may also be permitted as mobile premises under State law, but can be restricted to fixed locations by a municipality. Micro-sales licenses allow sales on-site up to 2 grams, often at a higher cost than would be found in a storefront, similar to a bar for alcohol consumption. Non-sales licenses are applicable to businesses with another primary service, such as a hotel or café. A jurisdiction may allow one or both types.

**Delivery Licenses** - Such businesses are permitted to deliver marijuana and marijuana products from sales locations to residences. Such businesses must charge $1 surcharge on each delivery that is remitted to municipality for local law enforcement costs. These more commonly been permitted for medical marijuana, with only a small number of communities allowing retail delivery.

**Other Licenses** – The City currently allows marijuana testing facilities. No testing facilities, which require a testing license, exist locally at this time. Transport licenses must be issued to any business that transports marijuana among cultivators, products manufacturers, or stores, and are therefore an integral license type if other businesses are to be allowed. Research and Development businesses can also be licensed, and this was recently approved in the City and County of Denver. This use is more commonly allowed in university communities, such as Fort Collins. Finally, business operator licenses are for marijuana-related professional services and management businesses.

**Sales Tax**

A variety of approaches can be taken to taxation of marijuana and the recovery of licensing and administration costs through the collection of fees. A meaningful approach to taxation requires clarity as to the license types under consideration; by way of example, a sales tax is only relevant in a municipality that allows marijuana stores, and an excise tax applies if the cultivation of marijuana is allowed.

Some taxes will be applied even without a special tax rate being approved by voters. The City base sales tax rate of 3.25% and the Mesa County sales tax of 2.37% will apply if the current moratorium is lifted. An additional 15% State Marijuana Sales Tax
(which absorbs the baseline State of Colorado Sales Tax of 2.90%) will be applied automatically to retail marijuana sales while a 15% State Marijuana Excise Tax will be applied automatically to any unprocessed or “cultivated” marijuana. 10% of the 15% state sales tax is subsequently shared back to the municipality. Thus, it is possible to accrue substantial revenue through the taxation of marijuana without the application of a special municipal sales tax on marijuana.

The majority of Colorado jurisdictions that allow for marijuana stores apply a special sales tax on marijuana products. The rate of taxation varies widely, with the most common rates being 5% or 3% on top of the baseline tax rate described above. Given the complex composition of the total sales tax and excise tax rates, it is exceedingly challenging to compile a set of reliable and directly comparable examples of rates and revenues in other communities. Moreover, communities with fewer than three operating stores, such as DeBeque and Palisade, do not share detailed information about their tax revenues in order to protect sensitive tax information for those businesses. However, it is possible to supply a general survey of communities that are either deemed comparable or represent a shared regional market. The table below illustrates sales and excise tax rates in the immediate region, as well as rates for communities that are comparable in that they are of similar size, have colleges/universities, are near borders with marijuana-prohibiting states, and/or are tourist destinations.

Somewhat more evident is the regional market, in which De Beque, Palisade, and Parachute are most proximate. These communities represent the direct market competition for any marijuana stores that would exist in Grand Junction; however, due to the evolving regulations of communities, even identifying regional competition is unpredictable. The revenues of stores in De Beque were noticeably impacted by the establishment of stores in Palisade. A similar impact might be felt if regulatory changes occur in Mesa County and/or the City of Fruita subsequent to any regulatory changes occurring in Grand Junction.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Special Marijuana Sales Tax</th>
<th>Special Marijuana Excise Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glenwood Springs</td>
<td>5% (authority to 15%)</td>
<td>5%</td>
</tr>
<tr>
<td>Fort Collins</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Longmont*</td>
<td>3.5%</td>
<td>3% (authority to 15%)</td>
</tr>
<tr>
<td>Durango*</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>De Beque</td>
<td>5%</td>
<td>5%***</td>
</tr>
<tr>
<td>Palisade</td>
<td>5% and above**</td>
<td>5%</td>
</tr>
<tr>
<td>Parachute</td>
<td>0%</td>
<td>5%</td>
</tr>
</tbody>
</table>

* Cultivation licenses not issued in this jurisdiction.
** Palisade charges an occupation tax of $5.00 for each sales transaction that is less than $100, $10.00 for each sales transaction between $100.00 and $500.00 and $25.00 for each sales transaction of $500.00 or more. Thus the rate on any given purchase ranges from 5% at minimum to upwards of 100% for the smallest purchases.
The chart above provides a survey of sales and excise tax rates for proximate and comparable communities. Further, more detailed information for four comparable communities—Glenwood Springs, Longmont, Boulder, and Fort Collins—can be found in attached, with certain highlights being as follows. Of those four communities, the special marijuana sales tax rate ranges from 0% from 5%, and the total revenue from that special marijuana sales tax, with the base city sales tax ranging from 3.53% to 3.86% in those communities. The cumulative annual sales tax revenue from marijuana in these cities ranges from $584,293 to $5,727,002. It should be noted that all of these communities have different numbers of storefronts, ranging from 4 (Longmont) to 13 (Fort Collins). Their average annual revenue per storefront was $248,904.22 in 2019. Professionals in various communities have noted in conversations with City of Grand Junction Staff that revenue per storefront appears to decline at the point of market saturation. In other words, there may be an optimal number of stores for a given community, but it can be assumed that that number is based on many factors that are difficult to predict in advance.

Another calculation, and one that may be relevant to the discussion of a maximum number of stores (as below), is the ratio of residents to storefronts. This ratio also varies widely among the communities included in the attached report, from 4,965 residents per storefront in Glenwood Springs to 24,316 residents per storefront in Longmont.

It is important to estimate the revenue as accurately as possible for the TABOR requirements of a potential ballot question because in the event the revenue is understated a refund is required. As well, an estimate will assist with prioritizing potential uses of the revenue generated from the tax. The calculation of revenue generated from a marijuana sales tax is complex because the data needed to translate from conditions and revenues in peer communities to conditions and revenues in Grand Junction is large, diverse, and often either non-existent or ephemeral. Non-existent data includes detailed and uniform data sets on marijuana usage by residents; ephemeral data includes the impacts of neighboring community’s regulations, which have continued to fluctuate statewide for over a decade. For example, while Mesa County Health Department estimates that, in 2016, 43% of adults in the County had used marijuana in their lifetimes, it is difficult to compare such data with peer communities or translate such data into revenue estimates. Broadly, it can be anticipated that the City would collect over $1 million in sales tax revenue annually, assuming a tax rate near peer communities, but revenue could far exceed this figure under real conditions.

Specific numbers aside, it is possible to define a policy-level strategy for marijuana taxation by considering competition and the anticipated behavior of consumers.
Essentially, the City may choose to pursue a regionally typical sales tax rate (i.e. 5%), or to aim above or below this number. The assumption made when aiming below the regionally typical rate may be that a lower tax rate may attract businesses and consumers to Grand Junction rather than neighboring communities. The assumption in aiming above that rate is that a large proportion of people who would purchase marijuana in Grand Junction are either driven by accessibility more than cost, or who evaluate the expense in traveling further as outweighing the cost of a higher sales tax.

**Excise Tax**

The relative competitiveness of an excise tax may be more deeply impactful than that of a sales tax. Excise taxes directly impact only cultivation licenses, which tend to locate based on a calculus of transportation infrastructure, tax obligation, and operations costs. To the extent that attracting cultivation businesses to the City is desirable for the purposes of job creation and other secondary economic benefits, a competitive excise tax may be considered a primary means of accomplishing this. As illustrated in the table above, an excise tax rate of 5% is regionally typical, and it is possible to establish the authority for Council to increase the excise tax at a later date.

**Licensing Fees**

In addition to taxation, many communities impose licensing and administration fees and annual license renewal fees. The total cost to license a business in most peer communities appears to be approximately $5,000-$10,000, though the cost to do so locally has not been firmly ascertained. At a policy level, three general positions can be taken: setting licensing fees at a rate to recover licensing costs; setting licensing fees at a rate to recover licensing and enforcement costs; or setting licensing fees below licensing costs while dedicating some proportion of the tax revenue to that gap in licensing costs and expenses. Each option has its relative merits and flaws in terms of regional competitiveness and fiscal viability.

**Use of Revenue**

A range of uses for anticipated tax revenue has been discussed by City staff, the Marijuana Working Group, and community members at large. The two primary types of uses for any revenues from regulated marijuana are uses that are aimed at mitigating potential negative impacts of marijuana in the community and uses that are aimed at meeting other, largely unrelated community needs. The mitigating expenditures include public safety (primarily for enforcement of legal-market regulations) and mental health services (including education on underage use prevention and drug abuse rehabilitation). Grand Junction Police Department leadership have also identified black-market marijuana enforcement as a potential use of funds. Marijuana tax revenue, as suggested by the draft PROS Plan currently under Council’s consideration, has been
considered for a community center, and it may fund educational investments such as school facilities and scholarships. Denver and Longmont have both earmarked revenue for affordable housing and homelessness issues.

Staff considers the relative merits of each option to be strong, and will look to the City Council to provide direction as it regards the strategic aims of the City and the relative impacts that this decision may have on the result of an April ballot question. A preliminary understanding of Council’s direction on this matter will be important to staff’s consideration of fees, and the amount of tax revenue that can be anticipated to be directed to enforcement and administration.

Ballot Language

The specific language for an April ballot question, if referred by the City Council, will likely impact its reception by voters; however, the language and structure of the ballot question will influence the ongoing flexibility of Council to develop regulations for marijuana over time. There are two distinct approaches to the ballot: one providing for long-term regulatory flexibility; the other providing for more direction from voters. Staff seeks direction from Council as to which of these options is preferred.

The former option consists of a general question(s) that would repeal that 2011 moratorium on marijuana businesses, as well as a question setting a tax rate or a maximum taxation authority. This option would require the City Council to adopt regulation of the types of licenses to be allowed, which could be any combination of medical and/or retail license types. It would also allow these types to be added to, or eliminated, by subsequent Ordinances. It would not, however, provide the voter with a direct decision as to which license types would be approved subsequent to a “yes” vote, leaving this decision to Council.

The latter option reduces Council’s flexibility, but provides for greater clarity of the voter’s intent. This would be to include, in addition to repeal of the 2011 moratorium and setting of tax rate(s), specificity as to the license types that would be allowed. This option would, however, prevent the Council from varying from the license types selected by voters without returning the question to the People. This option could be further elaborated by either: combining a recommended set of license types in a single question; or, providing an à la carte option for voters to select each license type in various questions. The latter option may introduce confusion, and may provide for a situation in which the license types allowed do not provide for a coherent model of licensure and eventual regulation.

Land-Use and Subsequent Regulation

Should a ‘yes’ vote on a ballot question as described be attained, and regardless of
whether specific license types are included on the ballot, the City Council would be empowered to develop a range of regulatory details. Frequently used tools in this regard include: a numerical cap on the number of marijuana businesses; buffering among marijuana businesses and between marijuana businesses and sensitive land-uses; zoning; use-specific standards; and “exclusion districts” in which no marijuana businesses may operate, all of which were discussed with the working group. A more detailed survey of land-use regulations that may be viable for Grand Junction can be found attached.

**Zoning** - Communities generally regulate marijuana sales so that they are permissible in commercial zone districts. Similarly, products manufacturers are generally seen akin to other processing and industrial-type of uses and are generally permissible in industrial or heavy commercial zone districts. Cultivation is frequently left to more rural or agricultural zone districts, particularly when the jurisdiction is a county, or exclusively limited to indoor grow operations in industrial zone districts, as seems to be more common in municipal environments.

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

The prospect of exclusion districts has been raised primarily in relation to the City’s gateways and to areas of specific interest for City investment. Members of the working group and staff have expressed interest in establishing exclusion zones at gateways such as the Horizon Drive commercial area, the 24 Road Corridor, and portions of I-70B. Another possible exclusion district could encompass areas nearest the Riverfront at Las Colonias and/or areas directly visible from Riverside Parkway, among others.

**Buffering** - In addition to general zoning for marijuana businesses, buffering is the most common other standard applied to marijuana related businesses. A Colorado State standard related to Drug Free School Zones is often interpreted as requiring that no dispensary be within 1000 feet of a school, though local governments may modify this distance. Some communities establish distance requirements between marijuana businesses and other uses, possibly including hemp grows as alluded to above. It is common for communities to require buffering between businesses conducting marijuana sales as well as buffering to sensitive land-uses such as schools, parks,
licensed day care facilities, and places of worship.

**Numerical Cap** - Many jurisdictions have set a numerical cap on the number of marijuana businesses. There is no uniform best practice for the calculation of a limit, and the ratio between the number of stores and the number of residents in jurisdictions with caps varies widely. The most common sentiment from the working group was to set a single-digit cap. By contrast, others preferred a free-market approach whereby tools such as buffers were enacted but no numerical limit would be set.

**Use-Specific Standards** - Other potential marijuana-related nuisances may be mitigated through use-specific standards. For example, parking requirements per square foot may be higher than for other retail uses, especially in communities with limits on the number of marijuana retail locations. Many municipalities also establish limits on the floor area of a retail location, to prevent the establishment of very large marijuana stores and to limit the potential impacts on real estate market under certain conditions. Other common performance standards include: limits on the visual and written references to marijuana on signage; window opacity standards; odor control requirements beyond general municipal standards; and site improvements beyond general municipal requirements.

**Enforcement**

After reviewing the regulatory enforcement function of marijuana in several municipalities Staff is recommending one or two full time sworn police officers. The actual number will depend greatly upon the number and types of licensing the City decides upon allowing. Enforcement will be focused on monitoring compliance with the City’s and the State’s regulatory requirements for licensing, inventory control, transportation, and sale to underage individuals. This last point may involve such things as sting operations utilizing underage operatives and/or people with fraudulent identification documents.

Staff also recommends funding be allocated to the investigation and enforcement of black and gray market marijuana. Black market marijuana is currently prevalent in Grand Junction and Mesa County and local law enforcement resources are too limited to address the complaints of grows, use and sales. The funding of two police officers to investigate and enforce state law regarding black and gray market marijuana is, per Grand Junction Police Department leadership, critical to addressing this problem in Grand Junction. Arguably the legal marijuana industry should be very supportive of addressing those competing with their business through illegal means. Additionally, the community should be concerned with the loss of tax revenue when illegal sales continue.

**CONCLUSION**
Staff will be providing an overview of this memo and will be seeking specific direction on the items listed below. Staff welcomes additional questions and discussion on this complex issue. The information contained in this report is designed to facilitate discussion, not to provide a definitive recommendation. It is evident, based on the concerted research efforts of staff, that there is no definitive best practice in the realm of marijuana regulations, but rather that each policy choice can be clearly identified with a different goal or motivation. To this end, staff seeks direction from Council on the following four matters:

1) the license types that the Council would refer to the ballot;

2) the preferred approach to the development of proposed sales and excise tax rates;

3) the potential for earmarking anticipated revenues; and

4) the preferred timing for the development by ordinance of the regulatory structure for any marijuana related business considered for the ballot.

**FISCAL IMPACT:**

The fiscal impact will depend on the policy and regulatory framework.

**SUGGESTED ACTION:**

Discussion and Direction.

**Attachments**

1. Sample Recommendations Survey
2. Detailed Tax Information
3. November 30 City Council Workshop Staff Report
4. July 13 City Council Workshop Staff Report
Information

SUBJECT:
Update on Marijuana Working Group

EXECUTIVE SUMMARY:

At the September 14, 2020 workshop of the City Council, the Council solicited public input regarding the status of medical and recreational marijuana businesses in the City—businesses which are, at present, almost entirely prohibited. The discussion concluded with a request by Council that staff initiate a systematic review of steps available to the City staff and officials to reexamine and, if so directed, to revise the municipal regulatory framework for marijuana businesses. Council also directed staff to form a working group of balanced and sensible composition to guide decision-making over the course of this process. This approach has facilitated, and will continue to facilitate, the forward progress of staff through this complex topic.

To date, a team of approximately ten staff has assembled from the Community Development Department, Police Department, Fire Department, City Attorney’s Office, City Clerk's Office, and City Manager's Office, with support from additional departments. This staff team is engaged in in-depth research across topics of licensing, land-use, education, public safety, taxation, law, and more. Staff has also formed the working group as requested, bringing the approximately 20 members together three times to engage this topic to date, with an anticipated five to seven additional meetings to come in December 2020 and January 2021. This staff team and community working group will each deliver recommendations to the City Council over the coming weeks and months, presenting best practices, possible courses of action, an anticipated ballot measure for April 2020, and other relevant information that will inform decision-making by the Council.
BACKGROUND OR DETAILED INFORMATION:

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

The legal background for marijuana businesses in the City of Grand Junction is complex, and is comprised of decisions made at the Federal, State, and Local levels including the decisions of officials and the results of ballot initiatives and petitions. A full summary of events leading to the extant legal conditions for marijuana businesses can be found in the attached memo prepared by the City Attorney’s Office. The present conditions can be summarized as follows. Federal regulations regard marijuana as an illegal, schedule 1 drug or controlled substance, and provide for criminal punishment of those knowingly in possession of the drug. State regulations regard marijuana as legal for recreational use by individuals over the age of 21, and legal for medical uses subject to licensing and approvals. The City of Grand Junction enforces the marijuana regulations found at the state level, and does not prosecute possession or cultivation of marijuana, nor the distribution of medical marijuana by licensed caregivers, to the extent that these activities are protected by the Colorado Constitution. The only marijuana-related businesses that are permitted within City limits are testing facilities, which do not sell or otherwise distribute marijuana.

Currently, City of Grand Junction staff and community members, including the Marijuana Working Group, are researching, reviewing, discussing and preparing a recommendation to assist in the development of an ordinance on the taxation, permitting and regulation of marijuana for the City Council’s consideration for a Spring 2021 ballot measure. The ballot measure could include a proposal to repeal a 2011 moratorium on marijuana businesses and establish a rate of taxation. Repealing the moratorium would allow City Council to regulate any and all marijuana businesses by ordinance.

A discussion regarding a possible spring election question is anticipated for mid-December. City Council is projected to review and vote for/against adoption of the ballot language by January 26, 2021, if there is desire to have a question in the spring. An intergovernmental agreement between the City and Mesa County for the regular
municipal election must occur on or before January 26, 2021 which is 70 days before election. The ballot certification must occur 60 days before the election, which date is February 5, 2021. An ordinance regarding business licensing, land-use permitting, and enforcement related to marijuana businesses will be proposed subsequent to the passage of the ballot measure.

Summary of Measures and Components

The City’s effort to review marijuana regulations involves four major components: a community working group; a staff team; a ballot measure; and, depending on the outcomes for these three components, an ordinance advancing new regulations on marijuana-related businesses.

1) Working Group
The working group is comprised of residents, business owners and leaders, and marijuana industry professionals. The goal of the working group, made up of 15-20 individuals, is to provide a recommendation to City Council regarding the types of—and/or limitations on—marijuana businesses that should be allowed in the City of Grand Junction. The recommendation will be formulated through discussions held during approximately eight meetings over the next three months.

2) Staff Team
The staff team is comprised of City of Grand Junction staff from the Community Development Department, Police Department, Fire Department, City Attorney’s Office, City Clerk's Office, and City Manager's Office. The role of the staff team is to bring information to the community working group for review, discussion, and recommendation regarding the taxation, permitting, and regulation of marijuana for the City Council’s consideration.

3) Ballot Measure
The City Council has initially expressed the intent to bring a ballot measure to voters in April, concerning whether marijuana businesses should be permitted and taxed in Grand Junction. This could include a proposal to repeal the 2011 moratorium on medical marijuana businesses and establish a rate of taxation. A ballot measure may also include earmarking of the revenue for certain City functions.

4) Regulations (Ordinance)
An ordinance establishing the regulatory framework for business licensing, land-use permitting, and enforcement related to marijuana businesses will be brought forward for City Council’s consideration.

Next Steps
The staff team involved in this process will continue to examine the range of regulatory options for marijuana businesses, and will continue to facilitate the development of a recommendation on this topic by the community working group. The goals and potential products of this effort being relatively established, this work may continue in essentially the direction in which it is already aimed. That said, the staff team remains flexible to the direction of the City Council regarding how best to pursue this research, and will change course as directed. One possible set of actions that has been discussed at various levels is the provision of a public set of data and review materials that may be put forward to inform the public and facilitate reasoned debate on the potential merits and negative impacts of changes to the City’s marijuana regulations. A similar product could be produced expressly for the review of Council, along with summaries of regulations in comparable jurisdictions, detailed legal or technical examinations of any particular aspects of this line of inquiry that the Council deems important, or similar. The staff team certainly embraces opportunities for public dialogue at all stages of research and recommendation, and welcomes any decision by Council that would expand or facilitate public engagement in this complex topic.

**FISCAL IMPACT:**

N/A

**SUGGESTED ACTION:**

For update and City Council discussion.

Attachments

None
Grand Junction City Council

Workshop Session

Item #1.a.

Meeting Date: September 17, 2020

Presented By: Greg Caton, City Manager

Department: Community Development

Submitted By: Greg Caton, City Manager

Information

SUBJECT:
Discussion Regarding the Potential Introduction of an Ordinance Permitting Marijuana Cultivation, Processing, Sales and/or Consumption

EXECUTIVE SUMMARY:
At City Council's workshop on Monday, September 14th the City will receive feedback from the public regarding marijuana business licensing and explore the possibility of a ballot question in April. A potential ballot question may include permitting marijuana cultivation, processing, sale and/or consumption. Based on the September 14, 2020 workshop, there may be discussion with the Planning Commission regarding land use related issues and/or formation of a working group to assist in the development of land use regulations.

BACKGROUND OR DETAILED INFORMATION:
Staff reports from City Council workshops on July 13th and September 14th have been attached.

FISCAL IMPACT:
N/A

SUGGESTED ACTION:
This item is for discussion purposes only.

Attachments

1. Sept 14 Marijuana Staff Report
2. July 13 Marijuana Workshop Staff Report
Grand Junction City Council

Workshop Session

Meeting Date: September 14, 2020
Presented By: Doug Shoemaker, Chief of Police
Department: Police
Submitted By: Doug Shoemaker, Chief of Police

Information

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

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

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

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

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

a. Should retail sales of medical and recreational marijuana be allowed? If so, where and/or with what conditions?

b. Should cultivation of marijuana be allowed? If so, where and/or with what conditions?

c. Should processing of marijuana be allowed? If so, where and/or with what conditions?

d. Should consumption of marijuana in “hospitality establishments” be allowed? If so, where and/or with what conditions?

e. Should a working group be formed to assist in proposed draft land use (and/or other) regulations? (Many communities have written regulations (largely focused on land use issues) by forming a working group of diverse interests. If the Council proceeds with an ordinance, City staff recommends the formation of a working group to provide input into the formation of regulations.)

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

a. An ordinance will need to establish a licensing process and program.

b. License fees will need to be determined, and,

c. The number (if limited) and type of licenses will need to be established.

Different communities which allow for the sale/cultivation of marijuana have different experiences and different approaches to regulation and taxation. Specific questions for the City Council include:
a. The City should consider level of taxation on retail sales.
b. The City should consider excise or other taxes on growing/production.

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

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

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

**FISCAL IMPACT:**

This item is for discussion purposes.

**SUGGESTED ACTION:**

For City Council discussion.

**Attachments**

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

1  Cannabis—From “Growing” to Dominant Industry
4  Understanding the Full Scope of Cannabis Business Types
5  Tracing the Impact of Federal Trends to the Local Level
14 Moving Forward
Cannabis—From “Growing” to Dominant Industry

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

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

U.S. public opinion support for cannabis legalization rose from 31% in 2000 to 66% in 2019.
While marijuana has been listed as a Schedule 1 drug at the federal level since the Controlled Substances Act in 1970, individual states have passed their own laws legalizing the production and sale of marijuana in various forms, uses, and under the umbrella of different business types.

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

Fifteen states have decriminalized, but not legalized marijuana, while 29 states and Washington D.C. allow medical marijuana, and 9 states plus D.C. have legalized recreational marijuana (though the latter allow for possession only, not retail or commercial growth). Thirty three states even offer comprehensive medical marijuana programs that give constituents a window to enter into the marijuana industry workforce.
Growing evidence of the medical benefits of marijuana may lead to the federal government changing its Schedule 1 drug classification. However, even if this doesn’t happen in the near future, industry pressure and international legalization efforts (like Canada’s recent legislation) are paving the way for more cannabis-friendly regulation. Since 2016, there have been ongoing legislative attempts to explicitly allow states to pass their own marijuana laws without interference from the federal government. The multiple bills currently facing the Senate lay new groundwork for decriminalization, taxation, and regulation of marijuana.

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

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

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

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

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

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

### Commercial Operations

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

### Non-Commercial Operations

<table>
<thead>
<tr>
<th>Role</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Grower</td>
<td>Grows plants in one's home, not for sale or distribution</td>
</tr>
<tr>
<td>Marijuana Cooperative</td>
<td>Cooperatives, also referred to as Collectives, are gardens where multiple individuals share in the costs and labor for growing plants for personal use (non-commercially); governments can distinguish between medical cooperatives and recreational cooperatives</td>
</tr>
</tbody>
</table>
Tracing the Impact of Federal Trends to the Local Level

There Is No One Solution: Local Context is Key

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

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

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

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

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

1. Start simple, then expand

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

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

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

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

While it’s still too early to tell the overall efficacy of this system, there’s no denying that this conscious approach to accepting applications has helped more efficiently manage the resources available to departments, and set the stage to build upon and learn from each wave of applicants.
An example of a user-friendly permitting, licensing, and code enforcement portal from OpenGov PLC that will encourage accurate and timely cannabis business registration, fee payment, and compliance.
2. Establish Zoning Laws with Buffers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Online Constituent Applications. Easier Compliance. Faster Revenue.

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

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

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

Is Your Community Grappling with Cannabis?

Talk with our team to learn about other OpenGov PLC communities
Recommendation from the Marijuana Working Group

BACKGROUND

The following recommendation was directly derived from written responses and group discussion of the Marijuana Working Group to a set of options provided by City staff. The Marijuana Working Group met eight times in November and December 2020 and received input from various experts in the regulation of marijuana businesses. The Group’s composition included local business leaders and real estate experts; local residents engaged with various neighborhoods and constituencies; marijuana and hemp industry leaders from across Western Colorado; and executive-level leadership from several public institutions in the Grand Valley. The Group was closely coordinated by City Staff from the Community Development Department, Police Department, Fire Department, City Attorney’s Office, Finance Department, City Manager’s Office, and City Clerk’s Office.

RECOMMENDATION

Summary of Working Group’s Recommendations:

<table>
<thead>
<tr>
<th>Retail Sales</th>
<th>Cultivation</th>
<th>Products Manufacturer</th>
<th>Hospitality</th>
<th>Delivery</th>
<th>Sales Tax</th>
</tr>
</thead>
</table>
| Allow        | Allow       | Allow                  | Do not allow| Medical only | 1. Place additional tax  
2. Earmark revenues |

Medical and Retail/Recreational Stores (i.e. dispensaries, sales locations)
Allow for both retail and medical sales licenses provided that these licenses are limited to C-1, C-2, B-1, and B-2 zone districts, with a decision on B-2 (Downtown Business) being guided with consideration to the Downtown Development Authority and downtown businesses. These businesses should also be subject to a buffer of 1,000 feet from any District 51 educational institution; of 500 feet from any higher education campus and from any licensed childcare center; and of 2,000 feet of any other licensed medical/recreational retail storefront. They should also be subject to use-specific standards including limitations on signage, advertising, odor, and security. Finally, a cap on the number of businesses should be strongly considered, such as would limit the number of stores to a total of between 6 and 10 stores. Detailed consideration should be given to any mechanism for enforcing the cap.

Cultivation Licenses
Allow for Cultivation provided that such operations be limited to the indoors for the control of nuisance, visual impact, and possible impacts to the hemp industry. Permits should be available for issuance no sooner than January 1, 2022. These should be limited to I-1 and I-2 zone districts. Cultivations should be subject to a buffer of 1,000 feet from any District 51 educational institution, and of 500 feet from any higher education campus and from any licensed childcare center. These operations should be subject to use-specific standards for odor and security and visual buffering from high-visibility corridors such as Riverside Parkway, and with setbacks from residential uses. These licenses are primarily relevant as a means of job creation and economic development.

Products Manufacturer Licenses
Allow for Products Manufacturer licenses provided that these are limited to I-1 and I-2 zone districts, and that they are subject to use-specific standards for signage, odor, security, and safety. These licenses are primarily relevant as a means of job creation and economic development.
Hospitality Business Licenses
Do not allow Hospitality Businesses at this time. These businesses may be considered in the future but are, to date, relatively untested and would therefore require a greater administrative burden and pose a greater risk for unpredictable impacts. They may, in the future, support a viable contribution to tourism and would also provide a service to City residents.

Delivery Licenses
Allow Delivery licenses for medical marijuana only, subject to further regulation. If not allowing these licenses, state explicitly in a regulatory ordinance that delivery operations licensed in another jurisdiction shall not operate within City limits. These licenses may be reconsidered in the future as regulations are further clarified by the State.

Sales Tax Rate and Fees
Place an additional sales tax on all retail sales of marijuana, taxes rates should be set to maximize revenues by setting a tax rate that is at or above the rate imposed in nearby communities. Fees should be set to fully fund administration through licensing and renewal fees. A ballot question should include a maximum local sales tax of 15%, while the exact tax rate should be set by ordinance and should be set near the mean regional rate of approximately 5%.

Excise Tax Rate and Fees
Place an additional excise tax on all processing and cultivation, with the excise tax rate be set to establish a business-friendly environment, including a minimum fee structure and a highly competitive tax rate, at or below that of nearby communities. A ballot question should include a maximum local excise tax of 15%, while tax rate should be set by ordinance. The initial tax rate should be set at or below the mean regional rate, between 0% and 3%.

Tax Revenue Usage
Earmark tax revenues primarily for administration and enforcement, with additional revenue allocated to parks and recreation and/or education. Revenue should be explicitly earmarked for specific uses; earmarking for broad purposes or for the general fund may be less successful on the ballot. Licensing and administration should be funded by fees where possible, without being cost-prohibitive to business.

FURTHER COMMENTARY
A range of dissenting and variant comments were raised by one or more members of the working group. These include, but are not limited to:

- Opposition to any ballot question that would allow retail marijuana businesses;
- Opposition to the allowance of medical and retail sales in B-1 and B-2 zone districts;
- Opposition to the setting of a numerical cap on the number of marijuana stores;
- Wide variation in the recommended number of stores, should a numerical cap be set;
- Support for different combinations of uses and distances included in the buffering of marijuana sales businesses, including removing parks from the list of buffered uses and/or adding treatment centers/halfway houses to the list of buffered uses;
- Opposition to the inclusion of K-12 education in the list of possible tax revenue uses;
- Support for earmarking tax revenues explicitly for the enforcement of black-market drug regulations and the recruitment of new officers;
• Opposition to directing marijuana revenues to the development of a community rec center;
• Support for a broadly more permissive environment for marijuana businesses to encourage attendant economic development;
• Support for a flat rate annual fee on license holders as a substitute for excise tax or sales tax;
• Support for enabling marijuana sales businesses along portions of North Avenue regardless of buffering regulations that may apply elsewhere;
You might recall Barbara Traylor Smith was a former City Council member and Mayor.

Tamra Allen, AICP
Community Development Director
City of Grand Junction, Colorado
tamraa@gjcity.org
970-256-4023

Due to the recent rise in COVID-19 cases, City Hall is closed to the public starting Monday, November 16, 2020 but there are no anticipated interruptions to City services. Staff are available by email and phone during regular work hours and appointments can be made on a case by case basis.

FYI

Thank you,
Greg

Greg Caton, ICMA – CM
City Manager
City of Grand Junction
970-244-1502

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

I hope you had a joyful holiday season. I have not been able to get to the workshops to hear the findings from the working group but have reviewed the attachments for tonight’s agenda.

Questions I do not see answered

1) Revenue’s from communities have been presented. Have increased costs to police, NPO’s, parks and rec, local hospitals, etc been investigated and addressed?
2) How have the homeless population counts been effected since the CO Law passed? Additionally how could the Boise case on homeless beds (John can help explain) affect our community if the population increases dramatically? (unintended consequences)
3) Potency levels are not addressed in the State law which has created strains that are so potent that they create hallucinations. Have you investigated the margin of any increased costs that are contributed to potency issues? Ability to regulate potency at the local level?
4) Youth use in the schools is handled in the school district not through the municipal court which is why the youth use is not accurately accounted (in my opinion). Has D51 been at the table to discuss the effects in the schools? Potency is a major issue in effects of adolescent use.

Phyliss may remember that when Homeward Bound came to council in January of 2013 or 2014 because they needed $40K infusion to be able to keep their doors open I asked what the effect of the passage of the marijuana use had been on their organization. Bill Wade responded that there was an influx for the first couple of weeks however when they found out they couldn’t purchase it, they moved on.

My understanding is that part of the need for the county public safety tax was the amount of presence required in De Beque which their police force could not handle or did not have jurisdiction.

https://www.upi.com/Health_News/2020/06/22/Colorado-traffic-deaths-up-75-per-year-since-pot-legalization-study-says/7231592841001/

Finally, taxing marijuana is not going to fix any budget. Cut’s are difficult however that is what is sometimes necessary. Let’s not sell out our kids future chasing this tax especially if we don’t know all the related expenses.

Warmest regards,

Barbara
January 15, 2021

City Council
City of Grand Junction

Dear Mayor and Council Members:

I am the President, CEO and majority owner of Plum Companies LLC, which operates four High Q retail marijuana stores in the Western Slope of Colorado as well as the Hava Gardens marijuana cultivation facility in De Beque and the Äkta marijuana manufacturing facility in Carbondale. In addition, I have been fortunate to have participated in the Grand Junction marijuana working group.

First, I would just like to compliment the City staff in how they have worked to inform the council and the community about marijuana as you consider legalization. I was most impressed with their hard work, dedication and understanding of this complex issue.

Second, I would like to submit a comment with respect to the ballot language for the upcoming April election. I think you should consider unlinking the ballot measures. There are some people who automatically assume that all taxes are bad so there is a real possibility that one measure may pass without the other. If the Repeal Measure is approved by voters and the Tax Measure is not, the City would still collect sales taxes on Retail Marijuana sales at its regular sales tax rate and would receive its portion of the State sales taxes on Retail Marijuana sales. I believe you could also go back to the voters at a later date to add an additional sales tax. If the Tax Measure passes and the Repeal Measure then the taxes would be there in the event you legalized marijuana in the future.

Thank you in advance for your time and consideration of my comment. I look forward to seeing how all of this continues to unfold in Grand Junction.

Sincerely,

Renée S. Grossman
A RESOLUTION SETTING A TITLE AND SUBMITTING TO THE ELECTORATE ON APRIL 6, 2021 A MEASURE CONCERNING THE TAXATION OF THE SALE OF REGULATED MARIJUANA AND MARIJUANA PRODUCTS, REGULATED MARIJUANA PRODUCT MANUFACTURING AND CULTIVATION OF MARIJUANA FOR REGULATED SALE TO PAY FOR PARKS, RECREATION, OPEN SPACE, TRAILS AND ENFORCEMENT PURPOSES AND TO RETAIN AND SPEND REVENUES AS DEFINED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION FOR PAYMENT THEREFOR AND PROVIDING OTHER DETAILS RELATING THERETO

RECITALS:

The City of Grand Junction, Colorado is a home rule municipal corporation duly organized and existing under the laws and Constitution of the State of Colorado and the City Charter. The City Council is duly authorized by the Charter and the Constitution to act for and on behalf of the City and the Council does hereby find and determine that it is in the public interest to propose the taxation of marijuana businesses in the City of Grand Junction, Colorado which businesses may or may not include (i) sale of marijuana and marijuana products, and/or (ii) marijuana product manufacturing and/or (iii) cultivation of marijuana for sale.

In 2010 the City Council prohibited the operation of medical marijuana businesses in the City limits and amended the Grand Junction Municipal Code by the addition of certain sections prohibiting specified uses relating to marijuana. A petition protesting those actions was filed, found to be sufficient, and the ordinance was suspended. The City Council referred a ballot question to the April 5, 2011 municipal election. That ballot question, known as Referred Measure A, prohibited the operation of medical marijuana businesses and amended the Grand Junction Municipal Code to prohibit certain uses relating to marijuana. Referred Measure A was approved with 7802 in favor and 5703 against.

On January 20, 2021 the City Council adopted Resolution ___-21, which referred a ballot question to the electorate to repeal the 2011 Measure A at the regular municipal election on April 6, 2021 (the “Repeal Measure.”)

The Repeal Measure provides that it shall be contingent on and subject to voter approval of this resolution (the “Marijuana Tax Measure”) which sets the ballot title for the taxation measure as required by the Colorado Constitution (Article X, Section 20 also known as “TABOR”) to increase taxes and as otherwise provided by law.

With the referral of this Marijuana Tax Measure to the April 6, 2021 ballot the City Council is not sanctioning any type(s) of marijuana business(es) in Grand Junction but instead is only providing for a means to tax marijuana business(es) if the Repeal Measure is approved by voters and if the City Council approves by ordinance certain regulations allowing the conduct of marijuana business(es) in the City. The exact number, type and location, if any, of any marijuana business(es) will be determined by and in the sound discretion of the City Council with no greater than six stores allowed in the City.

If the voters approve both the Repeal Measure and this Marijuana Tax Measure and, further if the City Council, by separate ordinance(s) authorizes and approves marijuana business(es) in Grand Junction, then the tax revenue proposed with this ballot question will be used to fund the construction, operation and maintenance of the highest priority(ies) of the 2021 Parks and Recreation Open Space (PROS) master plan,
which may include indoor and outdoor recreation and park facilities, capital improvements and enhancements to the City’s parks, trails and open space system. As well, some of the tax revenue will be utilized for enforcement of the laws, rules, and regulations that apply to the marijuana industry with specific emphasis on enforcement and lawful consumption, as provided by the ordinances to be separately adopted by the City Council.

Approval of this Marijuana Tax Measure does not approve debt; any project(s) for which debt is required to complete will require separate voter approval as established by Article X, Section 20 of the Colorado Constitution (“TABOR”).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Grand Junction that:

1. All actions heretofore taken (not inconsistent with the provisions of this resolution) by the City and the officers thereof, directed towards the election and the objects and purposes herein stated are hereby ratified, approved and confirmed.

2. Pursuant to the Charter and all other applicable laws of the State of Colorado, the Council hereby determines that an election shall be held on April 6, 2021 at which there shall be submitted to the registered electors of the City the question set forth herein.

3. The Council hereby authorizes and directs the City Clerk to submit the following ballot title to the registered electors on Tuesday, April 6, 2021.

SHALL CITY OF GRAND JUNCTION TAXES BE INCREASED BY TWO MILLION NINE HUNDRED THOUSAND DOLLARS ($2,900,000) IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY INCREASING THE CITY SALES AND USE TAX ON THE RETAIL SALE OF REGULATED MARIJUANA AND MARIJUANA PRODUCTS FROM 3.25% TO 8.25% (WITH AUTHORIZATION THAT THE SPECIAL SALES AND USE TAX OF 5% COULD BE INCREASED IN THE FUTURE ABOVE 5% WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE SPECIAL SALES AND USE TAXATION DOES NOT EXCEED 15%) AND THE IMPOSITION OF AN EXCISE TAX OF 3% (WITH AUTHORIZATION THAT THE EXCISE TAX OF 3% COULD BE INCREASED IN THE FUTURE ABOVE 3% WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE EXCISE TAX DOES NOT EXCEED 10%) WHEN UNPROCESSED REGULATED MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A REGULATED MARIJUANA CULTIVATION FACILITY AND IF THE TRANSFER OR SALE IS BETWEEN AFFILIATED REGULATED MARIJUANA BUSINESS LICENSEES THE TAX SHALL BE BASED ON THE AVERAGE MARKET RATE OF UNPROCESSED MARIJUANA, AND IF THE TRANSFER OR SALE IS BETWEEN UNAFFILIATED REGULATED MARIJUANA BUSINESS LICENSEES THE TAX SHALL BE BASED ON THE CONTRACT PRICE, WITH THE REVENUES FROM EXCISE AND THE SPECIAL SALES AND USE TAXES BEING USED FOR THE IMPROVEMENT AND PROTECTION OF THE COMMUNITY AND HEALTH AND WELFARE OF ITS CITIZENS AS FOLLOWS:

- THE ENFORCEMENT OF REGULATIONS ON THE REGULATED MARIJUANA INDUSTRY AND OTHER COSTS RELATED TO THE IMPLEMENTATION OF THE USE AND REGULATION OF REGULATED MARIJUANA AND LAWFUL UTILIZATION OF MARIJUANA; AND
- BUILDING, OPERATING AND MAINTAINING THE HIGHEST PRIORITY(IES) OF THE ADOPTED PARKS AND RECREATION OPEN SPACE (PROS) PLAN WHICH INCLUDE INDOOR AND OUTDOOR RECREATION AND PARK FACILITIES, CAPITAL
85 IMPROVEMENTS AND ENHANCEMENTS TO THE CITY’S PARKS, TRAILS AND OPEN
86 SPACE SYSTEM;

87 WITH ALL EXPENDITURES SUBJECT TO ANNUAL FINANCIAL AUDIT, AND MAY THE CITY
88 COLLECT, RETAIN AND EXPEND ALL OF THE REVENUES OF ALL OF SUCH TAXES AND THE
89 EARNINGS THEREON AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION
90 OR CONDITION UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR
91 ANY OTHER LAW?

92 ______ YES______ NO

93 4. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise
94 apply in connection with the provisions hereof (including, without limitation, § 31-11-111, C.R.S.) are
95 hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance
96 and such statutes. Any such inconsistency or conflict is intended by the City Council and shall be deemed
97 made pursuant to the authority of Article XX of the State Constitution and the Charter.

98 5. The ballot title is set based upon the requirements of the Colorado Constitution and the City Charter and,
99 pursuant to Section 31-11-102, C.R.S., is an alternative to the provisions of Section 31-11-111, C.R.S.
100 regarding both a title and a submission clause. Pursuant to Section 31-10-1308, C.R.S., any election contest
101 arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or
102 content of the ballot title shall be commenced by petition filed with the proper court within five days after
103 the title of the ballot issue or ballot question is set.

104 6. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to
105 effectuate the provisions of this resolution.

106 7. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid
107 or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in
108 no manner affect any remaining provisions of this resolution, the intent being that the same are severable.

109

110

111 INTRODUCED, READ AND APPROVED this 20th day of January, 2021.

112 __________________________
113 C.E. “Duke” Wortmann
114 Mayor and President of the City Council

116 ATTEST:

117 __________________________