



CITY COUNCIL STUDY SESSION
FEBRUARY 13, 2018

POTENTIAL REGULATION OF RECREATIONAL MARIJUANA

A BRIEF HISTORY LESSON

- **Corona Has Long Prohibited Medical Marijuana Dispensaries & Related Businesses**
 - ✓ **First prohibition adopted in 2006**
 - ✓ **One of the first published appellate court opinions related to enforcement of medical marijuana prohibitions (*Corona v. Naulls* in 2008)**



WHAT DOES PROP 64 ALLOW?

- Medicinal and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA)
 - ✓ Essentially Replaced Prop 64 and Consolidated with Medical Marijuana Regulation and Safety Act (MMRSA)



WHAT DOES PROP 64 ALLOW?

➤ Personal Use

✓ Age

- ✓ 21 years of age or older

✓ Possession

- ✓ Possess, process, transport, purchase, obtain or give away

✓ Use

- ✓ Smoke or ingest cannabis or cannabis products

✓ Cultivation

- ✓ Possess, plant, cultivate, harvest, dry or process up to 6 plants per residence for personal use, subject to reasonable regulation



WHAT DOES PROP 64 ALLOW?

➤ State Licensing of Commercial Operations

- ✓ **Since January 1, 2018**
 - ✓ All commercial cannabis businesses must have a state license to engage in any commercial cannabis activities
 - ✓ State licenses cannot be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation
 - ✓ State licenses will be valid for one year
 - ✓ Separate state licenses are required for each business location



WHAT DOES PROP 64 ALLOW?

➤ State Licensing of Commercial Operations (Cont.)

✓ Types of State Licenses

- ✓ **Types 1/2/3:** Cultivation; specialty outdoor and indoor (small and medium) (January 2018)
- ✓ **Type 4:** Cultivation; Nursery
- ✓ **Type 5:** Cultivation; outdoor/indoor (large) (January 2023)
- ✓ **Types 6/7:** Manufacturing 1 and 2
- ✓ **Type 8:** Testing
- ✓ **Types 9/10:** Retailer
- ✓ **Types 11/12:** Distributor /Transportation



WHAT DOES PROP 64 ALLOW?

➤ Local Regulatory Options

- ✓ MAUCRSA does not require cities or counties to enact a regulatory scheme by a certain date
 - ✓ If not in place before a business applies for a state license, state will contact local agency to ensure that activity would not violate local regulations
- ✓ May completely ban state-licensed cannabis businesses
 - ✓ May not prohibit use of public roads for deliveries in other jurisdictions
- ✓ May regulate all or some commercial cannabis activities
 - ✓ State standards are minimum standards
 - ✓ Possible additional standards: health & safety, environmental protection, testing, security, food safety and worker protections



“OPENING THE DOOR” TO REGULATION

➤ Aspects of the Marijuana Business

- ✓ Research
- ✓ Grow/Produce
- ✓ Manufacture
- ✓ Testing
- ✓ Distribute
- ✓ Sell (Retail)

➤ Allowing Any Aspect Increases Likelihood of Allowing All

- ✓ Policy pressure and/or initiative measures

➤ Perception Alone Likely Drives an Increase in Illegal Businesses

- ✓ 6 in first 6 months following passage of Prop 64



CITY STAFF CONCERNS

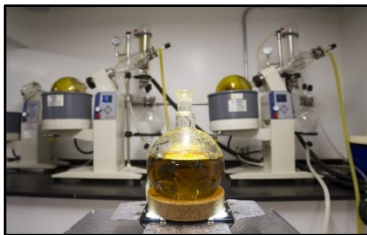
- **What Will the City's "Net" Financial Impact Be?**
 - ✓ Current budget challenges & the promise of money
 - ✓ Regulatory staff & enforcement costs
 - ✓ Timing gap between certain expense & uncertain revenue
 - ✓ "INVESTING WITH BORROWED MONEY" ~ Risk all on city
- **Fixed Costs & Related Concerns**
 - ✓ Community Development & Fire Department



CITY STAFF CONCERNS

➤ Concerns for the Building and Fire Departments

- ✓ Compliance with building occupancy classifications
 - ✓ Indoor commercial cannabis grow facility
 - ✓ Cannabis processing
 - ✓ Testing facility
 - ✓ Extraction facility



CITY STAFF CONCERNS

- **Concerns for the Building and Fire Departments (Cont.)**
 - ✓ **Ventilation**
 - ✓ Control heat and excess CO2 inside bldg.
 - ✓ **Gas Detection System**
 - ✓ Increased level of CO2 inside bldg. for commercial grow
 - ✓ **Odor Control**
 - ✓ External odor from operation
 - ✓ **Electrical Demand**
 - ✓ Indoor Grow Facility
 - ✓ **Quantity of highly flammable products in control rooms**
 - ✓ **Maintaining Means of Egress from the Building**



CITY STAFF CONCERNS

➤ Concerns for the Building and Fire Departments (Cont.)

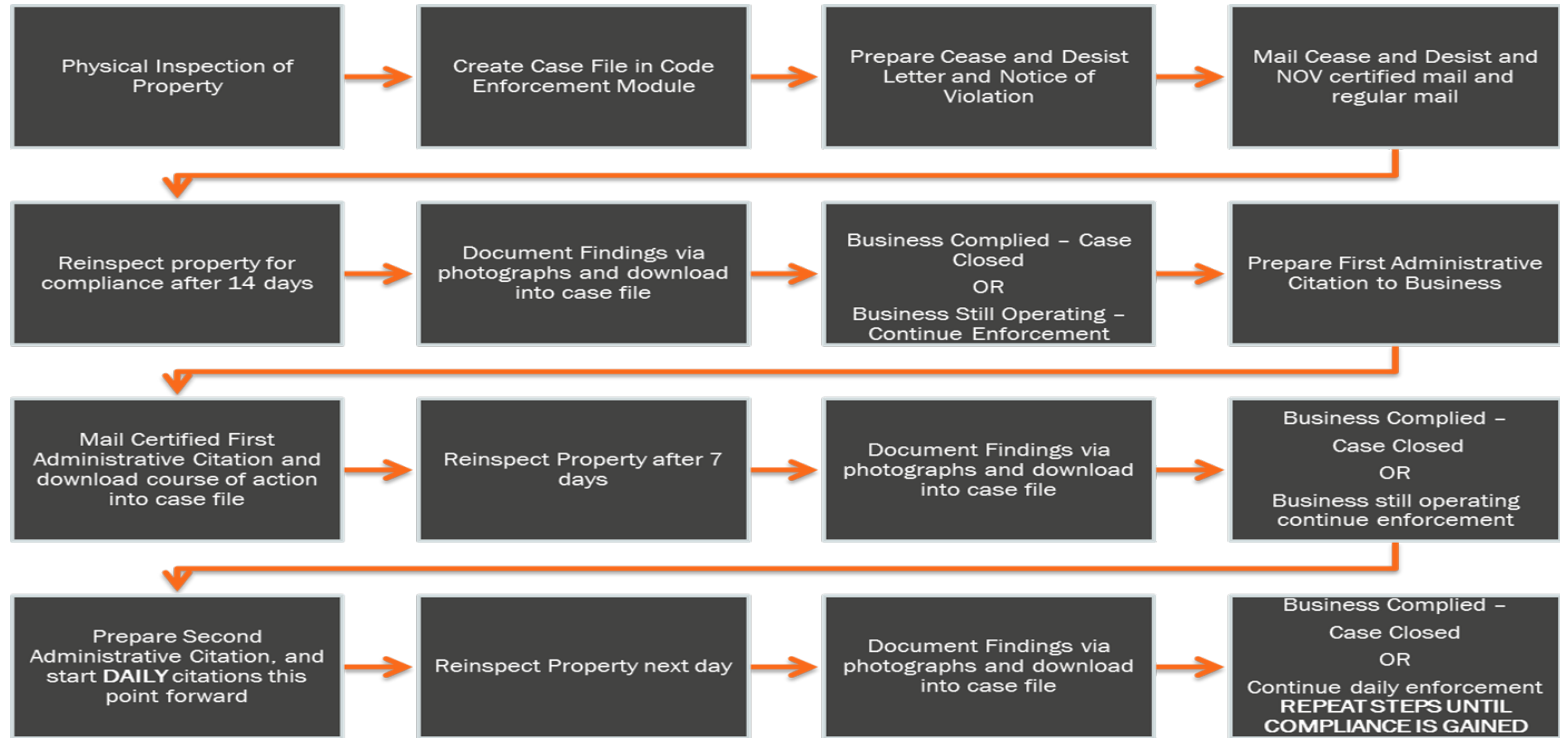
✓ Staffing Concerns

- ✓ Current staffing levels not sufficient
- ✓ Increased inspections by Building and Fire inspectors
- ✓ Ensure compliance with building and fire codes and building occupancy classification
- ✓ Unknown if operations would warrant bi-annual or tri-annual inspections by city staff



CITY STAFF CONCERNS

➤ Time Spent on Enforcement of Illegal Business



CITY STAFF CONCERNS

- **Police Department Highlights**
 - ✓ **Staffing Concerns**
 - ✓ **Crime Concerns**
 - ✓ **The Colorado Experience**



CITY STAFF CONCERNS

- Possible Utility Concerns
 - ✓ Electricity Thefts
 - ✓ Sewer System Impacts



CITY STAFF CONCERNS

➤ Current Enforcement Efforts

- ✓ The City's Complete and Unequivocal Prohibition Makes Our Enforcement Efforts Quicker and Much More Efficient

➤ Major Steps in the Process

- ✓ Discovery
- ✓ Inspection by Code Enforcement
- ✓ Cease & desist letter
- ✓ File complaint/request TRO in court
- ✓ Daily admin cites/fines (owners/operators/landlords)



CITY STAFF CONCERNS

- Recent Case Study (944 W. 6th Street)
 - ✓ Weeks from discovery to shut down - 6
 - ✓ Admin fines recovered - \$30,000

Before



After



CITY STAFF CONCERNS

➤ Variable Costs & Related Concerns

- ✓ **Enforcement Costs, Outside Legal Fees (6 Figures)**
 - ✓ Would want to avoid adding attorney
 - ✓ Easily double (or more) current city-wide outside legal fees
 - ✓ Longer, more difficult path to shut down
 - ✓ Approved businesses will demand enforcement against illegal operations
 - ✓ We have experience with this - remember billboards & massage establishments



CITY STAFF CONCERNS

➤ Variable Costs & Related Concerns

- ✓ Forensic Compliance Audits & Expert Witnesses
- ✓ Defending Constitutional Challenges
 - ✓ Equal Protection & First Amendment
- ✓ Secondary Effects Lawsuits
 - ✓ Example: *Ferranto*
- ✓ Workers Comp & Other Costs
 - ✓ Including Marijuana & Chemical Exposure



CITY STAFF CONCERNS

➤ Federal Issues

- ✓ Still Illegal Under Federal Law
- ✓ Banking Concerns
- ✓ Would the City Ever Be At Risk With Federal Grants?



WHY NOW?

- **There is Time to Learn from Other Cities**
 - ✓ **Regulatory/Inspection Issues**
 - ✓ **Development of State Law/Regs**
 - ✓ **Assess Federal/Banking Issues**
 - ✓ **Assess Net Cost Impacts**



WHY NOW?

➤ Are There Any Benefits to the City Proceeding Now?

- ✓ Chasing the “Risk Premium”
- ✓ Cities Don’t Chase Risk
- ✓ How Long Will the Risk Premium Last?



Declining
Prices & Taxes



Shifting
Leverage

Can We Risk Waiting More Than We Can Risk Failure?



QUESTIONS?

