



ARAPAHOE COUNTY
COLORADO'S FIRST

Board Summary Report

Date: July 7, 2020

To: Board of County Commissioners

From: Michelle Halstead, director of communication and administrative services, John Christofferson, deputy county attorney, Bill Skinner, senior planner

Subject: Update on Arapahoe County Marijuana Regulations

Request and Recommendation

The purpose of this study session is to provide a recap of previous direction, provide process information related to updating the county's marijuana regulations, and seek additional policy direction to complete implementation.

Background

Last year, the Board of County Commissioners asked county staff to identify a process for considering changes to Arapahoe County's recreational (retail) marijuana regulations. An interdisciplinary team reviewed information responsive to this request, presenting options for consideration during a February 2020 study session.

The [February study session](#) provided background information on the current regulatory environment, industry trends, and three options for potential policy changes. The Board directed staff to implement regulatory changes to only allow current medical marijuana stores to transition to a dual license (retail) based on economic and market trends. The Board was supportive of continuing nonconforming use of these businesses, with an annual approval based on compliance with state and local regulations. Given this potential new use, the Board was open to considering new licensing fees (similar to liquor). The Board also declined to pursue additional tax increases associated with retail sales at this time.

The COVID-19 pandemic slowed next steps to complete this effort on the original timeframe. The interdisciplinary team held a meeting with local businesses April 30, 2020 to answer questions and help determine the appropriate regulatory steps to implement board direction.

Regulatory Updates

Arapahoe County [Ordinance 2013-01](#) prohibited the establishment, maintenance, and operation of marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store within the county, while confirming that "the operation of licensed medical marijuana centers that are in compliance with the provisions of the Colorado

Medical Marijuana Code and Arapahoe County Land Development Code shall be unaffected by this Ordinance.”

Ordinance 2013-01 will need to be modified to allow for retail marijuana consistent with the Arapahoe County Land Development Code. The intent of the regulatory change under consideration is to allow these four to continue to operate and to include recreational marijuana sales, but to not open the door to new businesses.

The first reading is scheduled for July 14, 2020, with second reading July 28, 2020. The ordinance would go into effect 30 days following publication after the second reading.

In November 2015, the County amended section 12-1800 to become Marijuana Land Uses, making additional changes to definitions and provisions of the code through Resolution 15-0618. Neither the 2011 nor 2015 [land use regulations](#) permitted recreational sales or commercial grows. Both restricted the number of medical marijuana plants that could be grown in a residence by a patient or caregivers.

Chapter 3-3.5 of the Land Development Code will be modified to allow the four (4) current medical marijuana store licensees to apply for a retail marijuana store license. The current code refers these businesses within the nonconforming uses chapter of the Land Development Code. These provisions for nonconforming uses, in general, restrict the ability of an existing, nonconforming business to expand in area or to reestablish under certain conditions. While the regulations would expand the sales options from “medical only” to also include recreational marijuana, it does not allow the physical expansion of the four businesses due to their status as nonconforming uses.

The planning commission had a study session on this matter July 7, 2020, and will make a recommendation on LDC amendments during their July 28, 2020 meeting.

Additional Questions for Board Direction

- ***Application Review Process.*** If approved by the Board, businesses will apply to the state to convert from a medicinal-only facility to a dual use license, which will allow the company to sell the product in a retail environment, for customers over the age of 21. The state will forward the application to the county.
 - Does the county want to perform its own review of the application (including finger printing, background checks, etc)?
 - Does the county want to charge a licensing fee for this review?
 - Does the county want to accept the state’s approval as its own?
- ***Annual Review Process.*** The County Attorney’s Office currently coordinates the current review process for the BOCC’s annual approval of business operations.
 - Does the BOCC still want staff and the Arapahoe County Sheriff’s Office to review non-conforming use and compliance?
 - Does the county want to charge for the license renewal?
 - Does the BOCC solely rely on the state for review and compliance?

- **Compliance.** Does the BOCC want to arbitrate complaints/revoke licenses or designate another body to do so?
- **Marijuana Delivery Permit.**
 - Does the BOCC want to allow delivery of marijuana and marijuana products from marijuana stores within unincorporated Arapahoe County to people/locations within unincorporated areas?
 - If allowed, does the BOCC want to charge a fee for the marijuana delivery license?
 - Does the BOCC want to allow delivery of marijuana and marijuana products from marijuana stores locations outside unincorporated Arapahoe County to people/locations within unincorporated areas?
 - The county does not have licensing control over locations outside of unincorporated Arapahoe County, but can prohibit the access.

Fiscal Impact

Arapahoe County currently receives approximately \$15,000 annually in open space sales and use tax from current medical marijuana centers. Allowing the sale of recreational marijuana among four stores within unincorporated Arapahoe County would not be enough to address the county's structural financial challenges and current fiscal reality. Industry estimates the county could receive an estimated \$26,000 in additional open space sales and use tax and an additional \$120,000 from the special state sales tax if the county allowed recreational sales.

Next Steps & Recommendations

- The planning commission had a study session on this matter July 7, 2020. The planning commission had no questions, requesting clarification that the intent is to allow only the four nonconforming businesses to expand sales, as a land use, to include recreational marijuana and to not create any new business opportunities throughout the county.
- The first reading of the ordinance is scheduled for BOCC consideration July 14, 2020.
- The planning commission may make a recommendation on LDC amendments during their July 21, 2020 meeting.
- The Planning Division has scheduled a BOCC public hearing for application LDC20-003 on July 28, 2020, at which time the BOCC can hear and make a determination on proposed Recreational Marijuana LDC amendments.
- The second reading of the ordinance is scheduled for July 28, 2020. The ordinance would go into effect 30 days following publication after the second reading.

Attachments

- [February 3, 2020 Study Session](#)
- Land Use Development Code [Chapter 3 Permitted Uses, Subparagraph 3-3.5 Marijuana Land Uses](#)
- [Ordinance 2013-01](#)
- [Map of current medical marijuana centers](#)