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TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Jacqueline Beaudry, City Clerk  
Derek Delacourt, Community Services Area Administrator  
Brett Lenart, Planning Manager

SUBJECT: September 23 Council Agenda Responses - Supplement

DATE: October 4, 2019

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**WS-1 – Discuss City Proposed Ordinances for the Zoning and Permitting of Adult Use (Recreational) Marijuana Establishments as allowed by the Michigan Regulation and Taxation of Marijuana Act**

**Question: Q3.** In my earlier questions, I asked about implementation of any specific regulations related to the security guidelines referenced in 7:607 (2) (b). Boulder has what appears to be a more detailed section 6-15-5 (Application, Modification of Premises) that cover lighting, ventilation, electric load usage, etc. Should we be including these in our regulations, as well? (Councilmember Lumm)

**Response:** The administrative rules promulgated pursuant to the MRTMA contain detailed security measures required to obtain and retain a state license. This includes such requirements as sufficient lighting to meet the video surveillance system requirements and ventilation standards.

The Michigan Building Code requirements for electrical, mechanical, building, and plumbing will apply to marijuana establishments in the same way as they apply to comparable building uses that do not involve marijuana. The City Building Official enforces the Michigan Building Code in the City of Ann Arbor.

**Question: Q4.** In my earlier questions, I asked about expanding the definition of school to school-like and in looking at Boulder's "Locations of Recreational Marijuana Businesses

(section 6-16-7 of the Boulder code), Boulder includes licensed day care center and addiction recover facility in their 1,000 foot restriction. Does knowing Boulder includes day care center alter staff's views on this and should we also consider addiction recovery facilities in our 1,000 foot rule. (Councilmember Lumm)

**Response:** No. Staff has followed the direction from previous council action that retained the current language focused on schools. As it relates to addiction recovery facilities, if this were considered it would be important to clarify a definition. For example, would a church that hosts an addiction recovery meeting be considered an addiction recovery facility? There are similar challenges to the "youth center" provision that was considered previously.

**Question: Q5.** In terms of prioritizing applications, Boulder assigns priority in this order:

- To licensed medical marijuana businesses
- Marijuana establishment
- Businesses for either medical or recreational business whose applications have been approved but licenses not yet issued
- Applications for medical or recreational marijuana business licenses that have been submitted by the applicant and declared complete by the city

I asked a few questions about the competitive process in my earlier questions, but thought this was interesting in that (1) Boulder identifies the prioritization and (2) Boulder essentially does first come first served with priority to existing medical marijuana businesses. Does Colorado have a "competitive process" requirement like Michigan, and should we also spell out the prioritization for clarity? (Councilmember Lumm)

**Response:** No. The only reference to a "competitive process" in Colorado statutes that also involved marijuana was a statute that "create[s] the institute of cannabis research, to be housed at Colorado state university—Pueblo." The Colorado statute requires that research must be funded "through an open, competitive process using national best practices."

Under Chapter 96, the City will only be granting permits to marijuana establishments that receive a license from the State, so the prioritization listed above is not likely necessary.

**Question: Q6.** Boulder's ordinances and code also detail the violations that result in a suspension/revocation of a license or the imposition of a fine, and the requirements for the renewal of a license. This year, Boulder determined that the penalties for marijuana business violations should mirror the laws for alcohol licensed business violations. (Attached is a Jan. 2019 Boulder City Attny. memo to City Council re: these penalty regulations.) Boulder's Marijuana License penalty schedule outlines 27 "operational infractions" (as noted in the attachment, this is "not an all-inclusive list of all possible violations of the Boulder Marijuana Codes"), and conducted a comparative analysis of the regulatory requirements for licensed marijuana and liquor businesses. Can the City provide a similar comparison chart of the proposed penalties for marijuana and liquor

business infractions (e.g., compliance penalties for selling to minors, for the sale and transfer of licenses, etc.)? (Councilmember Lumm)

**Response:** The proposed amendments do not change the violation provision from the current version of Chapter 96, which provides that any violation of Chapter 96 is a civil infraction of not more than “\$500.00, plus costs and all other remedies available by statute”, with each day being a separate violation.

**Question: Q7.** Boulder has a city “Marijuana Enforcement Team” which is charged with, among other things, responding to marijuana business operational and compliance questions, providing sales and service training for stores, training about city inspection requirements and enforcement, maintaining a licensing office and website. Do we have any sense of what will be required of the city re: staffing needs associated with marijuana business compliance and operations?

Boulder City Attny. Marijuana Regulation Memo:

[https://www-static.bouldercolorado.gov/docs/Marijuana\\_Regulation\\_Memo-1.25.2019-1-201901290619.pdf?\\_ga=2.238520192.1200385551.1568834637-116051965.1557830021](https://www-static.bouldercolorado.gov/docs/Marijuana_Regulation_Memo-1.25.2019-1-201901290619.pdf?_ga=2.238520192.1200385551.1568834637-116051965.1557830021)(Councilmember Lumm)

**Response:** Presently, we are not aware of a need for additional staff associated with marijuana businesses. Compliance with operational requirements will be under the state’s jurisdiction. If marijuana related activity is occurring at a business that is not authorized under the MRTMA or the MMFLA, the business and the individuals associated with it would be subject to police enforcement and county prosecutor prosecution of state drug laws.