Zoning and Building Code Impacts for Marijuana

October 2017
How Land Use and Building fit into the Licensing Process

*Building permits are required in order to modify the premises. Building permits must be finalized before a business license can be issued. However, you may apply for building permits and a business license at the same time.

**Public hearings are only required for Medical Marijuana Dispensaries and Retail Marijuana Stores.
Land Use Regulations

Marijuana businesses are regulated via licensing laws, which references specific zoning uses:

<table>
<thead>
<tr>
<th>Land Use</th>
<th>License</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plant husbandry</td>
<td>Medical marijuana optional premises cultivation</td>
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<tr>
<td></td>
<td>Retail marijuana cultivation</td>
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<tr>
<td>Commercial Food Preparation &amp; Sales; General Manufacturing; or Heavy Manufacturing</td>
<td>Medical marijuana infused products manufacturer</td>
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<td>Retail marijuana infused products manufacturer</td>
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<tr>
<td>Retail Sales, Service &amp; Repair, all others</td>
<td>Medical marijuana centers</td>
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<td></td>
<td>Retail marijuana stores</td>
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<tr>
<td>Laboratory, Research, Development and Technological Services</td>
<td>Retail marijuana testing facility</td>
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<td>Medical marijuana testing facility</td>
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<tr>
<td>Terminal, freight, air courier services</td>
<td>Medical marijuana transporter</td>
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<td>Retail marijuana transporter</td>
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<tr>
<td></td>
<td>Medical marijuana off-premises storage (associated only with a medical transporter)</td>
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<tr>
<td></td>
<td>Retail marijuana off-premises storage (associated only with a retail transporter)</td>
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<tr>
<td>Whole trade or storage, general</td>
<td>Medical marijuana off-premises storage (must be associated with another Denver licensed marijuana premise)</td>
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<td></td>
<td>Retail marijuana off-premises storage (must be associated with another Denver licensed marijuana premise)</td>
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<tr>
<td>Bazaar, Carnival, Circus or Special Event – Temporary Amusement/Entertainment - Temporary</td>
<td>Cannabis Consumption Special Event Permit</td>
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Building Permit Review

• After receiving a zoning use permit (or choosing to do a simultaneous zoning/building review), plans are then logged in for building permit review by a number of disciplines, including:
  - Architectural/Structural
  - Mechanical/Plumbing
  - Electrical
  - Fire
  - Transportation
  - Zoning for structure
  - Environmental Health (some uses)
  - SUDP
Plan Review Issues

• Electrical
  • Continuous load
  • Lighting coordination with other disciplines as plans often different
  • Listed equipment
  • Upgraded electrical service

• Mechanical/Plumbing
  • Plumbing fixtures
  • Providing ventilation as if it’s an occupied space
  • Extraction facilities
  • CO2 enrichment
  • New requirements from Environmental Health for odor control – some existing business had to modify their HVAC system

• Architectural/Structural
  • Plumbing fixtures
  • Accessibility
  • Egress
  • Fire rated corridors in non-sprinklered buildings
Occupancy Classification Policy

• Wrote a policy in summer 2016 to outline building code occupancy classifications for all marijuana uses
  - While most are fairly clear, the policy ensures the City and the public are on the same page
• Grow facilities, including greenhouses – F-1
• Marijuana processing facilities – F-1
• Marijuana testing facilities – B
• Marijuana retail recreational and/or medical facilities – M
Occupancy Classification for Existing Dispensaries

- Medical dispensaries were treated as a B occupancy and regulated similar to other doctor offices/clinics based on a staff decision in 2009
- This was decided prior to an understanding Denver would have recreational marijuana
- Question asked was should there should an occupancy distinction between medical or recreational? – Denver answer: No
- Decided any new store not yet permitted will be an M occupancy
- Working with the industry, we developed criteria for when an existing store would have to undergo a change of occupancy
Occupancy Classification for Existing Dispensaries

• Working with the industry, we developed criteria for when an existing store would have to undergo a change of occupancy
  • The existing store is increasing its square footage either through an addition or expansion into an adjacent space
  • A level three alteration, as defined in the International Existing Building Code Section 505 is undertaken, except that the area of work exceeding 50 percent shall be within the tenant space, not the building area
    • If a tenant space includes a store/center and grow facility, and work is planned to occur only within the grow facility but it’s more than 50 percent of the total tenant area, then the store must undergo a change of occupancy
    • If 50 percent of the area of a store/center is undergoing work, but that does not encompass 50 percent of the tenant area, the store must undergo a change of occupancy
Today’s Issues

• Extraction segment of the industry continues to grow
  Decision on Class 1, Div 1 rooms for butane extraction – DFD to discuss

• LED lighting

• Unsafe conditions & work done without permits – enforcement/compliance problems (DEH, DFD, CPD)

• Continuing to improve our department’s relationship with the industry
  • Will be putting together a permitting/inspection educational event with the industry in partnership with DFD and possibly Excise & Licenses
Future – Greenhouses?

- A handful of greenhouses were permitted for the growing of marijuana under the 2009 International Codes.
- One planned under the 2015 International Codes but didn’t meet envelope requirements for the International Energy Conservation Code (IECC).
- Required customer to provide an energy analysis to document the energy consumption of a typical warehouse versus a greenhouse – needed to show that it would consume less energy.
- Customer didn’t end up moving forward but we are hopeful we can get to a place where we see more greenhouses.
Denver Fire Department
A Short History of Marijuana
Compliance in Denver
or
How I Got Grey Hair

Mark Rudolph, Technician
Nicole Skoumal, Operations Supervisor
2010 to 2013 – Facilities get licensed, and inspections completed by local Firehouse. Many spaces are former warehouses and some inspections are completed by Flammables group.

“Constitutional” issues...
2010 to 2013 - Unknown what will be happening in facilities (What are they actually doing??)

- No developed policies or procedures related to Marijuana facilities
- Unclear which agencies are involved, roles

“I have my license, what’s your problem?”
2013 to 2014 - Issues rapidly extend to home operations/ CO-OP grows.

- Spotting marijuana facilities from outside (visual cues)
- Building a database
- Right of entry
- Grow PODS
- No developed inspection schedule

“Oh, I thought that this was okay”
2014 to 2016 – New ordinances - Criminal violations add to compliance rates

- Home hash oil ordinance
- 36 plant count ordinance
- Group inspections for residential occupancies
2016 to 2017– Marijuana chapter adopted in Denver Fire Code Amendments. Cooperation amongst agencies continues to increase.

“Sorry, no one is home.”
2016 to 2017—Inspections aren’t just based on the fire code.

- Marijuana Chapter in Denver Fire Code Amendments, includes extraction room upgrades
- Enforcement for retroactive compliance
- Need for further inspector cross training
- Understanding industry developments and processes
2017 to now—Enforcement, communication, still working through challenges.

“Oh yeah? Well, I’ll call your boss.”
2017 and on - Looking back and towards the Future

“More work to do.”

- Constant innovation
- Temporary permits, retroactive compliance requirements
- Inspection schedules, group statistics, justifications
- Revising processes, policies
- Verifying SOP’s, equipment maintenance
- Life cycles for equipment, facilities

- Outreach and education
- Code updates, committees
- Communication – internal and external
- Reviewing overlap
- Social consumption, special events, hemp
- Political sensitivity
QUESTIONS?