How to Balance Cannabis Production within your Industrial Community

*Lessons from Denver, Portland & Seattle*

Urban Manufacturing Alliance
Bay Area Urban Manufacturing Initiative
August 1, 2017
Today’s Agenda:

1. Welcome and introductions
   Poll – Where are you calling from?

2. SFMade Welcome
   Martine Neider; Regional Initiatives Manager, SFMade

3. What is the Urban Manufacturing Alliance?
   Lee Wellington; Executive Director, UMA

4. Introduction to Today’s Webinar and Speakers
   Johnny Magdaleno; Communications & Development Manager, UMA

5. Seattle Case Study
   David Mendoza; Senior Policy Advisor, Office of Policy & Innovation, Seattle Mayor’s Office

6. Portland Case Study
   Tyler Bump; Senior Economic Planner, City of Portland

7. Denver Case Study
   Jill Jennings Golich; Deputy Director of Community Planning & Development, City & County of Denver

8. Question and Answer Session
   Please type your questions into the Questions box in your Control Panel
The Urban Manufacturing Alliance

UMA is a coalition of 600 members across 200 cities that are sustaining and growing manufacturing in urban centers. Through gatherings, original research, policy development, and our communities of Practice, UMA is working to ensure that cities continue to be places where we make things.

Manufacturing matters, and it matters deeply to the health and vitality of cities. A strong urban manufacturing base supports innovation, sustains living-wage jobs that provide a crucial pathway to the middle class, and promotes workforce inclusion.
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CURRENT STATE OF THE SEATTLE MARKET

• Combined Medical & Recreational Market
  • 42 (of 48) retail locations now open
  • 6 retail locations pending
  • 79 producer/processors
  • 37 pending producer/processors
  • 80 non-Seattle businesses who sell product in the City

• Illicit Market
  • 118 storefronts (August 2015)
    • All storefronts were closed or converted to state licensed location by early July 2016.
  • 14 (down from 38 in early 2016) delivery services advertising online
  • 8 delivery services – misdemeanor charges filed – City Attorney seeking settlements
  • Weekly papers and Leafly have banned advertising. Craigslist listings have shrunk.
ENFORCEMENT RESOLUTION

Tier 1:
- Distributing or delivering marijuana or marijuana infused products directly to anyone under 21 years old or people other than qualifying patients.
- Under law enforcement investigation for criminal violations or public safety concerns.
- Manufacture or distribute products that mimic trademark protected products or are otherwise appealing to children.
- Operating without a business license or with a business license obtained after January 1, 2013.

Tier 2:
- Violation of City building, fire, or other codes.
- Engaged in delivery services of marijuana for medical purposes.
- Allow consumption of marijuana or marijuana infused products on their premises.

Tier 3:
- Distributing marijuana that has not undergone microbial and potency testing.
- Located within 500 feet of another licensed or unlicensed marijuana establishment or are within 1000 feet of a school or playground.

ENFORCEMENT PREFERENCE
- City agencies will favor civil remedies to address compliance.
- Criminal sanctions may be imposed if civil remedies fail to gain compliance.
• Limited to only those businesses that have received a license to produce, process or distribute marijuana by the WA State Liquor and Cannabis Board (LCB).
  • LCB rules for marijuana businesses would be incorporated in a way to allow the City of Seattle to enforce.

• Non-state-licensed marijuana establishments in compliance with MUCA and enforcement guidelines allowed continue to operate without a regulatory license until July 2016.
  • Exemption only extended to those that opened before 1/1/13.
• Upon passage of legislation FAS, wrote and/or visited 69 storefront dispensaries requesting them to close in 30 days.

• Prior to that deadline, FAS Inspectors visited 8 dispensaries and were able to purchase medical marijuana without a medical authorization at 3 locations.
  • After the closure deadline, FAS obtained search warrants and seized marijuana products from 3 locations.
  • FAS led seizures with support of two uniformed SPD officers. Neither owners nor employees were arrested or detained. Owners faced misdemeanor charges, reached settlement with CAO by agreeing to end their businesses and allow SPD to destroy seized product.

• By of July 2016:
  • All Non-WSLCB licensed storefront businesses had closed without a single arrest or criminal charge being filed.
• Existing State buffer is 1000 feet from sensitive uses.
• HB 2136 allowed local jurisdictions to lower buffer to 100'.
  • Except 1000 feet from schools and playgrounds must be maintained.

• City Ordinance:
  • Lowered buffer to 500 feet in most cases.
  • Lower buffer to 250 in select downtown zones
• No Change: Schools and Playgrounds (1000’)
• General reduction from 1000’ to 500’
  • Child care centers
  • Game arcades
  • Libraries
  • Public Parks
  • Transit Centers
  • Recreation centers or facilities
City of Seattle

Existing Marijuana Business Locations and Estimated Allowed Area for Marijuana Businesses
Under Zoning Restrictions and Potential City Licensing Requirement

1000' Buffer 5,150 gross acres of estimated allowed areas

500' Buffer 6,800 gross acres of estimated allowed areas

License Option Description

500'/1,000' Buffer for Existing State Licensed Retail Locations
500'/1,000' Buffer for Existing Medical Locations

Areas Potentially Not Allowed
Under Existing Licensing Requirements (see description below)

Estimated Allowed Areas
6,800 gross acres

License Option Description

500'/1,000' Buffer for Existing State Licensed Retail Locations
500'/1,000' Buffer for Existing Medical Locations

Areas Potentially Not Allowed
Under Existing Licensing Requirements (see description below)

Estimated Allowed Areas
5,150 gross acres

This map is intended for planning and analysis only and should not be used for site-specific development decisions. The location of a proposed site is approximate and may change as a result of future changes in city regulations and site-specific factors. This map is not intended to replace other regulatory documents or enforcement actions. The city reserves the right to enforce regulations that are not covered by this map.
RETAIL STORES: DISPERSION

- Two stores can be within 1000’ of each other. A third store must be 1000 feet from both of the first two stores.
- Date to check for dispersion and for Land Use Code buffering is date LCB notifies City of application (Local Authority Notice date).
- Stores licensed/permitted by State/City may be “grandfathered” to Land Use Code.
- Measurements are property line to property line.

STORE #1  100 FEET  STORE #2  1000 FEET  STORE #3

1100 FEET
QUESTIONS?
DAVID.MENDOZA@SEATTLE.GOV
City of Portland
Land Use Planning and Trends in Cannabis Businesses
Portland Employment Geographies
Portland Employment Trends

2010-2035 Employment Growth Distribution

- Residential: 7,400 (5%)
- Institutions: 22,730 (16%)
- Neighborhood Commercial: 35,140 (25%)
- Industrial: 31,630 (22%)
- Central City: 44,740 (32%)

Employment Land Demand by Building Type

- General Industrial: 128 ac (5%)
- Warehouse: 662 ac (26%)
- Institutional: 563 ac (22%)
- Office: 498 ac (19%)
- Retail: 403 ac (16%)
- Flex: 309 ac (12%)
Marijuana Business Permit Types

- Production - Indoor and outdoor growing operations. Flower trimming and product ready for wholesale/retail.

- Processing - Post flower processing including extract processing and edible manufacturing.

- Wholesale - Producer as a vendor for retail or processing businesses. Business to business transactions.

- Retail - Retail location for direct to consumer.
State Licensing vs. Local Permitting

- Oregon Liqueur Control Commission - Implements state licensing for business consistent with the state law allowances for marijuana businesses.

- Portland Office of Neighborhood Involvement - Local permitting for location, public safety and notice requirements.
Industrial Area Concentration
Industrial Land Policies

- Promote industrial land retention and limit conversion
- Industrial Sanctuary designation for regionally significant industrial districts and freight hubs
Canopy Size Limits

Oregon Producer License Canopy Designations

- **Indoor:**
  - Up to 625 square feet (Micro tier I)
  - 626 to 1,250 square feet (Micro tier II)
  - 1,251 to 5,000 square feet (Tier I)
  - 5,001 to 10,000 square feet (Tier II)

- **Outdoor:**
  - Up to 2,500 square feet (Micro tier I)
  - 2,501 to 5,000 square feet (Micro tier II)
  - 5,001 to 20,000 square feet (Tier I)
  - 20,001 to 40,000 square feet (Tier II)
Monitoring for Impact

Oregon Producer License Canopy Designations

- Issues we are tracking
- Stacking of multiple production licenses on one site
- Vertical integration of business functions e.g.- production, processing, wholesale on one site.
- Quality of job and employment opportunities:
  - Middle wage jobs ($15-$20 per hour)
  - Benefit eligibility
  - Working conditions
Retail Concentration
Retail and Public Realm
Retail and Public Realm
Tax Revenue

State of Oregon Marijuana Tax Receipts

Source: Dept. of Revenue
Tax Revenue

Annual FY2017 Sales Estimates

Statewide sales

Portland sales
Tax Revenue

- Local sales tax approved on November 2016 ballot at 3% of retail sales
- Estimates of local sales tax generation based on FY2017 state tax receipts
Questions

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Denver’s Regulatory Framework for Marijuana

Jill Jennings Golich
Deputy Director, Community Planning and Development
• Implemented a city-wide new zoning code in 2010 to better implement city and neighborhood plans
  – Context-based approach as framework for new zones
  – Creation of new “Industrial Mixed-Use” zone districts
• Decision in 2010...Which regulatory approach to govern the location and operation of MJ businesses?
<table>
<thead>
<tr>
<th>Area of Regulation</th>
<th>Licensing “Privilege”</th>
<th>Zoning “Property Rights”</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business Operations</strong></td>
<td>Yes</td>
<td>Not Typically</td>
</tr>
<tr>
<td></td>
<td>Address security, owner character and criminal record, public health, security, marketing, limits on clientele and employees; need approval for expansions</td>
<td>Sometimes hours of operation are limited to reduce external impacts on adjacent residential zones</td>
</tr>
<tr>
<td><strong>Location</strong></td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Usually refers to zoning (e.g., MMJ ordinance); may include distance requirements (e.g., liquor licenses)</td>
<td>Similar uses with similar impacts are typically allowed in same zone; may include distance requirements (liquor; industrial; outdoor uses)</td>
</tr>
<tr>
<td><strong>Administration / Remedies</strong></td>
<td>1. Yes</td>
<td>1. Yes</td>
</tr>
<tr>
<td></td>
<td>2. <strong>Yes</strong> - annual renewal and fee</td>
<td>2. No</td>
</tr>
<tr>
<td></td>
<td>3. <strong>Yes</strong> - right of entry and regular inspections</td>
<td>3. <strong>No</strong> - enforcement on complaint basis only</td>
</tr>
<tr>
<td></td>
<td>4. <strong>Yes</strong> – revocation specific to operator; emergency suspension allowed</td>
<td>4. <strong>Yes</strong> – revocation specific to the property</td>
</tr>
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<td></td>
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<tr>
<td><strong>Retroactive Application / Grandfathering</strong></td>
<td>Yes</td>
<td>Not Typically</td>
</tr>
<tr>
<td></td>
<td>Licenses are granted or denied regardless of when business was established</td>
<td>Previously established uses no longer allowed in zone are “nonconforming” - may continue with limits on expansions and reestablishment</td>
</tr>
</tbody>
</table>
• Denver decided to use its licensing laws as the primary regulatory tool for MJ businesses
• Conscious decision not to create distinct land uses just for MJ businesses in the zoning code – but have had to add MJ language to the code over time
• MJ businesses are regulated entirely within the city’s business licensing laws, which in turn cross-reference zoning land uses
Marijuana businesses are regulated via licensing laws, which state business must be permitted as one of the following specific zoning uses:

<table>
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<th>Land Use</th>
<th>License</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plant husbandry</td>
<td>MJ optional premises cultivation</td>
</tr>
<tr>
<td>Commercial Food Preparation &amp; Sales; General Manufacturing; or Heavy Manufacturing</td>
<td>MIPS - infused products manufacturing license</td>
</tr>
<tr>
<td>Retail Sales, Service &amp; Repair, all others</td>
<td>MMJ centers and MJ retail store</td>
</tr>
<tr>
<td>Laboratory, Research, Development and Technological Services</td>
<td>Retail MJ Testing Facility</td>
</tr>
<tr>
<td>Terminal, freight, air courier services</td>
<td>Marijuana transporter</td>
</tr>
<tr>
<td>Wholesale trade or storage, general</td>
<td>Off-premises storage facility</td>
</tr>
</tbody>
</table>
• Zoning doesn’t recognize any difference between medical and recreational MJ

• Licensing code prohibits dispensaries in certain low-scale neighborhood zone districts, even though those districts allow general retail sales
• 2010 and 2011: Denver made a conscious decision to “grandfather” business locations that existed before city’s permanent licensing regulations were enacted
  – Necessary because of the 10 year gap before any formal regulation by either the state or the city after Amendment 20’s passage legalizing medical marijuana
Complications: Timing is Everything

• **2010:** While Denver was enacting new MMJ licensing laws, Denver adopted its new Zoning Code
  – Some previously mapped industrial areas were rezoned to less intensive mixed use zone districts
  – Some previously mapped general business areas were remapped to more limited neighborhood commercial zones

• **Result:** Creation of “nonconforming” MJ businesses permitted by zoning before 2010 (growing, manufacturing, and selling)

• **Now:** Both “grandfathered” businesses under licensing laws and “nonconforming” businesses under zoning laws
2010 DZC Map
Industrial Districts

What Former Chapter 58 Industrial Zones I-0, I-1, I-2 Were Rezoned to in New Code

- I-0, I-1, I-2 - Retained in New Code
- Weners, Conditions, or FBG
- I-A
- I-B
- Rezoned to Other Than I-A, I-B
• In 2013, City Council approved based on CPD recommendation a clarification that marijuana grows operate as “plant husbandry” and require full enclosure – so 500 ft spacing from residential zone districts no longer applied to MJ Grows

• With 2016 capping bill, licensing now requires a 1000 ft spacing from residential zone districts
Continuing Refinements: Marijuana Extraction

• With legalization of recreational marijuana, MJ edibles market exploded and continues to grow

• Licensing *originally* allowed “MIPs” under only 2 zoning land uses:
  – Food preparation & sales, commercial
  – General manufacturing
• Extractions occurring under licensed-recognized “food prep” zoning use – too intense?

• Solvent-based MJ extraction activities were classified as “heavy manufacturing” under zoning (like perfume factories) because of use of toxic and explosive materials
  – MIPs licensing scheme did not recognize this zoning use
Continuing Refinements: Marijuana Extraction

- **Result:** New definitions of MJ extraction-related terms added to zoning (below). Incorporated different scales/intensities of MJ extraction into existing zoning definitions of food prep and manufacturing.
  - “Extraction, food-based”
  - “Extraction, solvent-based”
  - “Marijuana concentrate”
  - “Marijuana-infused product”
  - “Food” does not include marijuana concentrate
Continuing Refinements: Marijuana Extraction

• **Result:** Zoning “Commercial food preparation & sales” use limits types of extraction that can occur under that use and indicates you must make food

• **Result:** Refined General/Heavy Manufacturing use definitions to account for different scales/intensities of extractions:
  – General (allowed in more parts of city): Solvent-based extraction activity capped at 3,000 sf of gross floor area in any 1 building
  – Heavy (restricted to city’s purely industrial areas): Greater than 3000 sf of solvent-based extraction gross floor area in any 1 building
• I-B is the City’s most intense industrial zone district
• Retail sales is allowed but you can only:
  – Sell what you make on site
  – Sell to the general public what you store on site
• Intent - keep the area industrial
• Marijuana stores located in the I-B district want to sell more than they make, and are arguing if they store a product on site it can be sold
• Will likely result in an appeal to our Board of Adjustment and a change to our zoning code
• Moratorium on new recreational marijuana businesses was to expire

• Argued for continued moratorium but City Council decided to pursue a cap on grows and stores only as well as add additional location restrictions

• Total number of available sales and grow locations capped at no more than 467
Thank You!

Questions?
Contact Jill: 720-865-2909 or Jill.jenningsgolich@denvergov.org
Question & Answer Session

To ask a question **type your question** under the “Question” section on your control panel and **we will read your question to the group**. Please include your organization with your question.

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Thank you!

Join us: urbanmfg.org/get-involved