CANNABIS LANDSCAPE
LEGALITY OF CANNABIS

- NM – 17th State
- 18 States Legalized
  - Adult-use
- 4 States – 2021
- Opt-in vs NM
**NM CANNABIS TIMELINES**

- **JUNE 2021**
  - NM Rec Cannabis Legalized

- **SEPT 1, 2021**
  - NM Accept Applications
  - Producers/Cultivation
  - Microbusiness Producer

- **SEPT 7, 2021**
  - CLC adopted Zoning Code to address Cannabis

- **JAN 1, 2022**
  - NM Accepted all business license applications

- **APR 1, 2022**
  - Cannabis Retail Begins
CANNABIS UPDATE

- Marijuana Opportunity Reinvestment and Expungement (MORE) Act
  - House of Reps vs Senate
- Expect shortages
- Testing Facility - Coming Soon
- Cannabis Expo 2022 in Las Cruces
  - Southern NM Cannabis & Hemp Exp
CANNABIS ZONING REFRESHER
# CANNABIS ZONING

<table>
<thead>
<tr>
<th>STATE LICENSE TYPE</th>
<th>CLC LAND USE TYPE</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis Consumption Areas</td>
<td>Cannabis Retailer</td>
<td>C-1, C-2, C-3; *M-1/M-2</td>
</tr>
<tr>
<td>Cannabis Couriers</td>
<td>Accessory/related to other business types</td>
<td>variable</td>
</tr>
<tr>
<td>Cannabis Manufacturers</td>
<td>Cannabis Industry</td>
<td>M-1/M-2, M-3</td>
</tr>
<tr>
<td>Cannabis Producer Microbusinesses</td>
<td>Cannabis Microbusiness, Cannabis Industry</td>
<td>EE, REM with SUP; C-1, C-2, C-3; M-1/M-2, M-3</td>
</tr>
<tr>
<td>Cannabis Producers</td>
<td>Cannabis Industry</td>
<td>M-1/M-2, M-3</td>
</tr>
<tr>
<td>Cannabis Research Laboratories</td>
<td>Cannabis Research Laboratory</td>
<td>M-T, M-1/M-2, M-4</td>
</tr>
<tr>
<td>Cannabis Retailers</td>
<td>Cannabis Retailer</td>
<td>C-1, C-2, C-3; *M-1/M-2</td>
</tr>
<tr>
<td>Cannabis Servers</td>
<td>Accessory to Retail</td>
<td>N/A</td>
</tr>
<tr>
<td>Cannabis Testing Laboratories</td>
<td>Laboratory</td>
<td>O-2, C-2, C-3, M-T, M-1/M-2</td>
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<tr>
<td>Cannabis Training/Education</td>
<td>Accessory/related to other business types</td>
<td>variable</td>
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<tr>
<td>Integrated Cannabis Microbusinesses</td>
<td>Cannabis Microbusiness, Cannabis Industry, Cannabis Retail</td>
<td>EE, REM with SUP; C-1, C-2, C-3; M-1/M-2, M-3</td>
</tr>
<tr>
<td>Vertically Integrated Cannabis</td>
<td>Cannabis Industry</td>
<td>*M-1/M-2</td>
</tr>
</tbody>
</table>

*retail in industrial zones ancillary to industry and limited to 5000 sq ft or 49%
ZONING ALTERNATIVES

• Infill Development
• Cottage Industry (C-1, C-2, C-3, M-T, M-1/M-2, M-3, NMO, SMO, UDO)
• Overlay Zones (IDO, ADO, NMO, SMO, UDO, WMIP, DDC)
• Residential Zones
  • Personal Use (6 mature plants/ adult: max 12/ household)
  • Home Occupations
  • Microbusiness in EE or REM with SUP
ZONING CONDITIONS

• 300’ from school/daycare
• Indoor consumption only
• No consumption in C-1
• Cannabis Retailer/Microbusiness
  • 300’ from sf residential zones, 300’ from other cannabis retailer
• Cannabis Microbusiness in EE or REM requires SUP
  • Accessory to residential, ≤200 mature plants, products must be grown on-site, fully enclosed accessory building, 100’ from other residences
• Distancing deviations require SUP or Variance
OBSERVATIONS
SUPS AND VARIANCES

• SUP: use that may be allowed at a particular location if potential impacts mitigated
• Variance: numeric deviation from the code
• Commercial corridors often adjacent to SFR
• No proliferation of cannabis uses in one area/ neighborhood
• Buffer Deviation Applications (3/21/22)
  • Approved- 1 SUP, 1 Variance
  • In Process- 3 SUPs, 2 Variances
OTHER

• Microbusiness/ Small Business Requests:
  • Incentives
  • Expedited review
  • Broader application of zones/home occupations
  • Reduced code requirements

• Confusion regarding State vs. City rules and regulations
• Underestimation of the complexity and costs of starting new business
RECOMMENDATIONS

• Realize Las Cruces
  • Shift towards generalized land use categories
  • Eliminate cannabis uses as distinct categories
    • Ex: retail, commercial agriculture, manufacturing, etc.
• Add operational requirements outside of Zoning Code
  • Similar to alcohol (LCMC Ch 5), tobacco (LCMC Ch 12 Article V), and other business types (LCMC Ch 16)
• Eliminate buffers from SFR zones and between retailers
• Retain school distancing requirements
POLICY QUESTIONS

• Prioritize microbusinesses/ small-scale cannabis businesses
  • more comprehensive than just zoning

• Consumption:
  • Retain indoors only and monitor impacts (if any)
  • Include SUP provision or operational conditions for outdoor consumption areas
BUILDING & PERMITTING
BUSINESS REGISTRATION PROCESS

• Serves multiple purposes
  • Ensures that Tax & Revenue has correct information
  • Notifies that a business is in compliance with code
  • Allows for Change of Use/Occupancy/Occupancy Class

• Three inspections
  • Planning—is this business allowed in this location
  • Building—is the building safe and sustainable
  • Fire—is the business operation safe
REGISTERING CANNABIS BUSINESSES

• Treated the same as any other business
  • Exception: we verify their status with Cannabis Control Division

• Staff training
  • Fire and Building staff attended up to 8 hours each

• Weekly Cannabis Business Pre-application Meeting
  • Wednesdays @ 2:30 PM
  • Usually 5-7 attendees
MAIN ISSUES

• Knowing whether a permit is needed
• Path of egress and Exiting doors
• Security requirements
  • Knox box
  • Exiting doors
• Electrical and plumbing retrofits
• Bathrooms
• Understanding the scope of the business and safety risks
CURRENT REGISTRATIONS

- Production/Grow
  - 13 Producer
    - 2 issued
  - 4 Microbusiness
  - 1 “Manufacturer”

- Courier
  - 1 issued as Home Occ

- Retail
  - 3 Medical Sales
    - 2 issued
  - 18 Recreational Sales
    - 2 issued

- State
  - 72 applications in LC
    - 3 producer; 1 retail approved
CANNABIS TAX
CANNABIS EXCISE TAX

- Imposed on a cannabis retailer
- Does not apply to medical cannabis
- Municipal Distribution 33.33%
- Administration Fee 3%

<table>
<thead>
<tr>
<th>Year</th>
<th>Excise Tax</th>
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<tbody>
<tr>
<td>2024</td>
<td>12%</td>
</tr>
<tr>
<td>2025</td>
<td>13%</td>
</tr>
<tr>
<td>2026</td>
<td>14%</td>
</tr>
<tr>
<td>2027</td>
<td>15%</td>
</tr>
<tr>
<td>2028</td>
<td>16%</td>
</tr>
<tr>
<td>2029</td>
<td>17%</td>
</tr>
<tr>
<td>2030</td>
<td>18%</td>
</tr>
</tbody>
</table>
ECONOMIC DEVELOPMENT
# Cannabis Background

## Cannabis Licenses

<table>
<thead>
<tr>
<th>License Type/Status</th>
<th>Source</th>
<th>City of Las Cruces</th>
<th>Cannabis Control Division</th>
<th>NMHealth.org</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>Issued</td>
<td>Total</td>
</tr>
<tr>
<td>Retailer Recreational</td>
<td></td>
<td>18</td>
<td>2</td>
<td>72</td>
</tr>
<tr>
<td>Manufacturer</td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Producer</td>
<td></td>
<td>13</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Microbusiness</td>
<td></td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Courier</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical</td>
<td></td>
<td>3</td>
<td>2</td>
<td>10</td>
</tr>
</tbody>
</table>

## Cannabis Retailers

- **Total**: 18
- **Issued**: 2
- **Approved**: 1

Source: City of Las Cruces Permits-Community Development | NM Cannabis Control Division
MEDICAL CANNABIS

Total Medical Licenses for Dona Ana County

Most Common Condition (State):
2021: Post-Traumatic Stress Disorder

Dona Ana County:
2021: 10,950 (mean)

Out-of-State
2021: 651 (mean)

Source: NM Health https://www.nmhealth.org/about/mcp/svcs/rpa
LIMITATIONS AND CHALLENGES

Based on several assumptions related to:

- **Population (local & out-of-state):**
  - Population $\geq 21$ years old.
  - Growth rate.
  - No population from Mexico or parts from Texas other than El Paso, Clint & Socorro was included.

- **Number of medical licenses:**
  - Number of out-of-state and local medical licenses.
  - Growth rate.
  - Percentage of personal productive licenses.

- **Consumption (local and out-of-state):**
  - Amount
  - Frequency
  - Consumption growth rate
  - Type of product
  - Price
  - Number of users
    - No indirect revenues were considered (e.g., hotels, restaurants).
    - Potential supply side shocks were not considered as part of the analysis.
**METHODS & ASSUMPTIONS**

Local Population

- Estimated population >= 21 (annual growth 1%)
  - Las Cruces users with medical license [1]
  - * ½ (Percentage of past month cannabis use based on NM NSDUH data) estimate for age group >= 26
  - (Percentage of future cannabis users was assumed to increase at a 0.5 percentage points per year)
  - Total potential consumers that will grow their own product (~2%) [3]

Total potential local consumers [3-4]

Consumer Edibles
10 grams
* Assumed 1 days/month
$0.15/grams
55% users

Consumer Topicals
10 grams
$0.32/grams
* Assumed 1 days/month
26% users

Consumer Smoker
81% users

Source: [1-4]

Total = Total consumption grams/year * price/gram ($10.05)
METHODS & ASSUMPTIONS

El Paso, Socorro, Clint Population

- Estimated population >=211 (*annual growth 1%)
- Users with medical license
- % (Percentage of past month cannabis use based on TX NSDUH data[1] estimate for age group >=26)
  (Percentage of future cannabis users was assumed to increase at a 0.5 percentage points per year)
  -Consumers that will buy from Sunland Park, Anthony, Chaparral (assumed 90%)

Total potential out-of-state consumers [3-4]

Consumer Edibles
- 10 grams
- *Assumed 1 days/month
- $0.25/grams
- 55% users

Consumer Topicals
- 10 grams
- $0.32/grams
- *Assumed 1 days/month
- 26% users

Consumer Smoker
- 81% users

Source: [1-4]
POTENTIAL REVENUE

FY Monthly Average
2022 $ 63,954.20
2023 $ 65,889.00
2024 $ 69,618.13
2025 $ 73,407.43
2026 $ 80,853.57
2027 $ 88,723.87

1/3 Excise tax + ~ 3.16% GRT

Source: [1-4]
REFERENCES

CANNABIS OUTREACH

• Collaboration w/ Community Development Department in weekly Pre-Application sessions

• Monthly newsletter updates

• One-on-one business consultations

• Cannabis Information webpage

• Hosted two-day seminar +200
PUBLIC SAFETY
CANNABIS AND LAW ENFORCEMENT

APPlying the Law

• Smoking Cannabis in public is punishable by a $50.00 fine (follow Clean Air Act)
• Any possession on school property or daycare center is a misdemeanor no matter the age of offender.
• Possession in **public** of more than 2-8 oz is a misdemeanor and over 8 oz is a felony.
• Underage possession (18-20 years old) carries 4 hours of community service or drug education.
• **Driving under the influence is still ILLEGAL (same as alcohol)**
• **Selling to minors is illegal and felony**
CANNABIS AND SAFETY BUSINESS OWNERS
FOLLOW ALL STATE AND LOCAL LICENSE REQUIREMENTS

PHYSICAL SECURITY:
CAMERAS, STORAGE, LIGHTING, PROCEDURES

EMPLOYEES:
SAFEGUARDS TO AVOID THEFT, EMBELZZLEMENT, SIDE SELLS
LEGAL
DEE JOHNSON CLEAN INDOOR AIR ACT

• The City is required to make it own ordinance “inclusive of all the minimum standards and provisions for smoke free areas”. NMSA § 24-16-12.

• In 2019, the NM legislature amended NMSA § 24-16-12.

• In 2019, the NM legislature passed Cannabis Regulation Act.
CITY’S CLEAN INDOOR AIR ACT (LCMC SECTIONS 12-121 THOROUGH 12-133)

- City adopted its own Clean Indoor Air Act in 1995 with Ordinance No. 1436.
- On August 6, 2018, with Ordinance No. 2870, the City amended it to include electronic cigarette devices.
- On December 6, 2021, with Ordinance No. 2989 (Cannabis Regulation Act)
Ordinance No. 2989 permitted cannabis uses in the Cannabis Regulation Act

The City prohibits outdoor recreational cannabis consumption.

The City prohibits outdoor cannabis consumption for retail and commercial uses in Ordinance No. 2986.
## PERMITTED SMOKING AREAS

<table>
<thead>
<tr>
<th>PERMITTED SMOKING AREAS</th>
<th>CITY CLEAN INDOOR AIR ACT LCMC§12-126</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Residence (Outdoor cannabis consumption limited)</td>
<td>√</td>
</tr>
<tr>
<td>(b) Retail tobacco (stand alone, outdoor cannabis prohibited)</td>
<td>√</td>
</tr>
<tr>
<td>(c) Cigar bar (stand alone, outdoor cannabis prohibited)</td>
<td>√</td>
</tr>
<tr>
<td>(d) Tobacco manufacturing</td>
<td></td>
</tr>
<tr>
<td>(e) Gaming, casino, bingo</td>
<td></td>
</tr>
<tr>
<td>(f) Designated outdoor area (Cannabis consumption is prohibited)</td>
<td>√</td>
</tr>
<tr>
<td>(g) Private club (Outdoor cannabis consumption prohibited)</td>
<td>√</td>
</tr>
<tr>
<td>(h) Hotel &amp; motel rooms (10% Capacity)</td>
<td>√</td>
</tr>
<tr>
<td>(i) Native ceremonies</td>
<td>√</td>
</tr>
<tr>
<td>(j) Theatrical/movie production</td>
<td>√</td>
</tr>
<tr>
<td>(k) Consumption areas (Indoor only for cannabis)</td>
<td>√</td>
</tr>
</tbody>
</table>
QUESTIONS