



CANNABIS POLICY REVIEW 2021

STUDY SESSION 2

TOWN OF ERIE

STUDY SESSION 1 OVERVIEW: FEB 2ND

- Erie's background with the Marijuana Policy
- The current environment:
 - Change in permitted use by state map. 2016 vs 2021
 - Nearby municipalities permitted use and excise tax
 - Nearby operating dispensaries
- Economic impact (tax revenue, job creation, private investment)
- Regulatory controls - Licensing and inspection
- Health and welfare
- Public safety and law enforcement

FOLLOW UP - 9 QUESTIONS

1. What are the two questions in regards to a potential marijuana policy for the 2021 Community Survey?
2. What statutory Towns are bringing in revenue from marijuana sales from excise tax?
3. What are the best practices for restrictions?
4. What is the high-level breakdown of the \$22 per capita net revenue?
5. Local vs State – What authority does the Town have to regulate the potency, quantity sold, etc.?
6. More detail on how delivery works. Who receives the tax revenue?
7. What is the historical incidences comparison of Liquor vs Marijuana citations in Erie?
8. What would the community engagement plan look like to educate residents?
9. Provide more detail on marijuana's effects on public health

1) 2021 COMMUNITY SURVEY - TWO QUESTIONS IN REGARDS TO A POTENTIAL MARIJUANA POLICY

- To what extent would you support or oppose ending Erie's current moratorium on retail marijuana businesses and instead establish strict zoning guidelines and regulations to permit Recreational and Medicinal Cannabis retail stores in specified locations within the Town of Erie?
- If Cannabis retail stores were permitted within the Town of Erie, to what extent would you support or oppose the adoption of an additional local excise tax on the sale of cannabis products similar to those taxes currently imposed in neighboring communities? (e.g., Boulder, Lafayette, Louisville - 5% excise tax, Longmont - 3% excise tax).

2) WHAT STATUTORY TOWNS ARE BRINGING IN REVENUE FROM MARIJUANA SALES FROM EXCISE TAX?

- Vic researched CO municipalities that permit the sale of marijuana
 - 167 statutory jurisdictions in CO
 - 126 do not permit marijuana sales / 41 allow retail sales
 - 103 Home Rule jurisdictions in CO
 - 50 do not permit marijuana sales / 53 allow retail sales
- Most municipalities that do permit the sale of marijuana apply a 5% excise tax

3) PLANNING DEP. – BEST PRACTICES

- Allowed Zone District: - CC-Community Commercial
- Separation of Uses: 1,000 feet from any school and child care centers. 250 feet from residentially zoned property.
- Separation of Medical/Retail Marijuana Stores:
 - No medical/retail marijuana store shall locate closer than 1,500 feet from another medical/retail marijuana store.
 - Potentially limit total number of stores to 3 to 6 for the whole Town. Limiting the number and limiting the market could monopolize the license.
- Maximum Size of Facility: 3,000 sf for a single use (medical or a retail) /5,000 square feet for a combined medical and retail marijuana store.
- Odor Reduction Requirements: Ventilation required. The odor of marijuana shall not be perceptible to an ordinary person at the exterior of the building or space adjoining the licensed premises.
- Security Measures: These should be reviewed by the Police Department. Planning and Economic Development support the inclusion of security measures.

4) HIGH-LEVEL BREAKDOWN OF THE \$22 PER CAPITA NET REVENUE

- Candice provided a spreadsheet with her methodology to derive the \$22 per capita net revenue. The city names are not listed to comply with State law regarding confidentiality of sales tax information (some locals have so few vendors it would be possible to identify individual establishment's sales).
 - Attachment – “Marijuana Revenue Comparison”

5) STATE VS LOCAL AUTHORITY – WHAT AUTHORITY DOES THE TOWN HAVE TO REGULATE THE POTENCY, QUANTITY SOLD, ETC.?

- Municipalities may restrict:
 - Distance between premises for which local licenses are issued
 - Reasonable restrictions on the size of an applicant's licensed premises
 - Other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the license.
 - The local requirements can be more restrictive than state requirements
 - Depending on the Ordinance, it may be possible to establish limits on serving size
- Potency is regulated at a state level

5) STATE VS LOCAL AUTHORITY...CONTINUED

- Per State mandatory rules:
 - A new license may not be issued for a medical marijuana dispensary within 1,000 of a location where another application was denied within the past two years
 - Applicant must have existing lease/ownership of property and the zoning must permit the activity
 - Additional distance requirements surrounding schools, alcohol or drug treatment facilities, child care facilities, and higher education institutions. (See slide 24)
 - Minimum age to purchase -18 years for medical and 21 years for retail.
 - Medical marijuana - unless otherwise prescribed, there is a limit of 2 ounces or 6 immature plants
 - Retail marijuana - 1 ounce limit, but this excludes nonedible, non-psychoactive retail marijuana products such as topical ointments and lotions.
 - Restrictions on marijuana advertisements that specifically target underage individuals

6) MORE DETAIL ON HOW DELIVERY WORKS. WHO RECEIVES THE TAX REVENUE?

- Marijuana delivery permits are separate from a general license to operate as either a medical or retail dispensary
- If a marijuana dispensary delivers a product to an address in the Town, the sales tax is paid to the Town.
- A dispensary must charge a \$1.00 delivery fee that is remitted to the municipality where the licensed medical marijuana store is located
- Retail marijuana is subject to both a 15% sales and excise tax, and local governments receive 10% of the 15% retail marijuana sales tax.

7) LIQUOR VS MARIJUANA HISTORICAL INCIDENCES IN ERIE

- Note 1: The first four columns of data (MJ Juvenile Arrests, MJ Adult Arrests, Alcohol Juvenile Arrests and Alcohol Adult Arrests) are all driving-related charges to which include DUID, DUI and DWAI.
- Note 2: The second four columns of data (MJ Juvenile Citations, MJ Adult Citations, Alcohol Juvenile Citations and Alcohol Adult Citations) are for possession, consumption, in public or providing to minors citations. No arrests were made with these cases.

Year	MJ Juvenile Arrests	MJ Adult Arrests	Alcohol Juvenile Arrests	Alcohol Adult Arrests	MJ Juvenile Citations	MJ Adult Citations	Alcohol Juvenile Citations	Alcohol Adult Citations
2018	0	2	2	71	30	14	16	10
2019	0	4	1	79	19	10	10	19
2020	1	5	1	58	11	7	16	21
Totals	1	11	4	208	60	31	42	50

8) WHAT WOULD THE COMMUNITY ENGAGEMENT PLAN LOOK LIKE TO EDUCATE RESIDENTS?

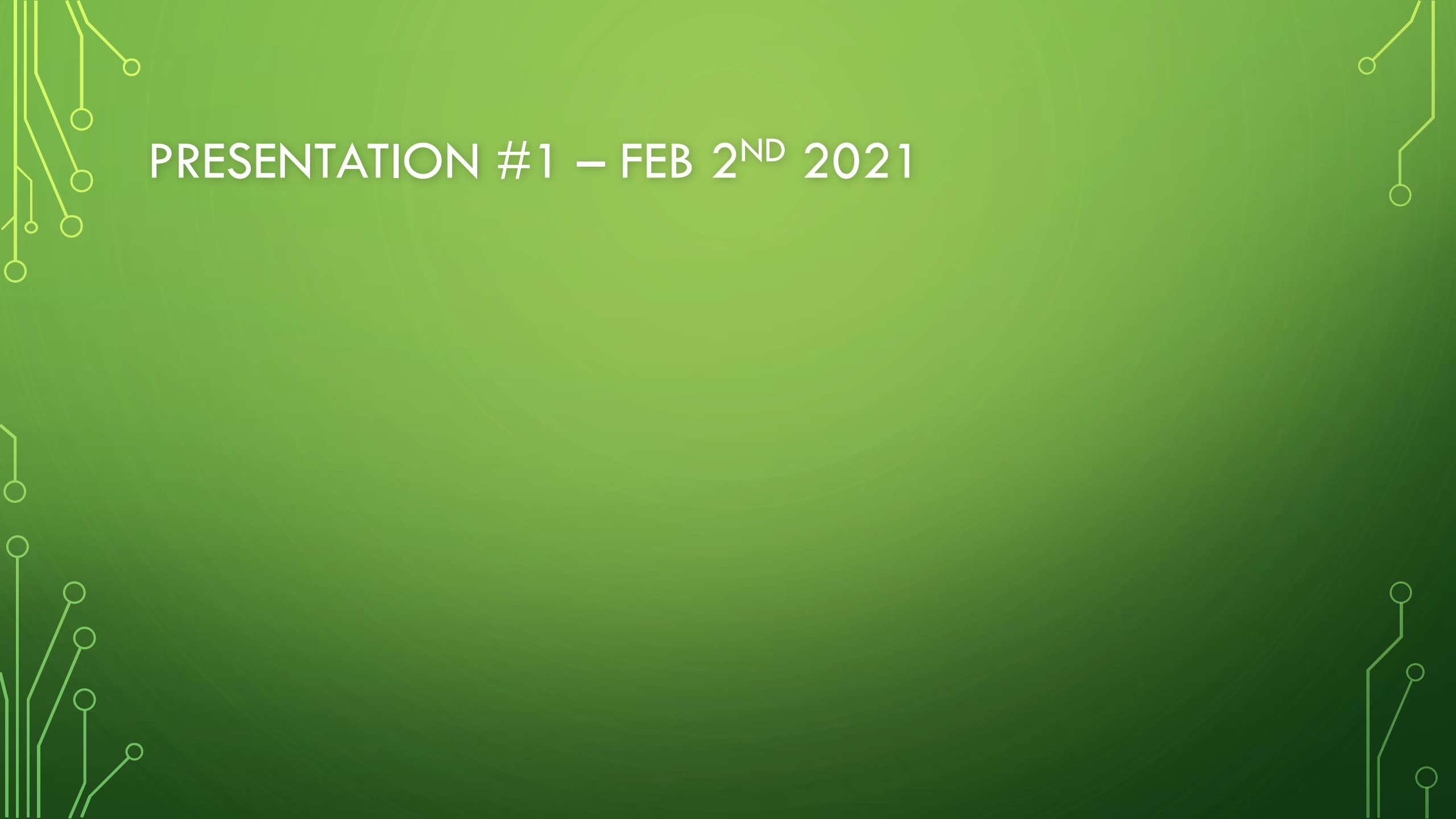
- The State of CO has educational materials on the topic of retail marijuana. The Communications Department will tailor these materials to Erie's needs.
- Post educational material and encourage two-way questions, comments, and feedback in typical channels:
 - Facebook, Twitter, Instagram, Nextdoor, etc.
 - EngageErie
 - Potential for in-person discussions as needed/appropriate
- Will partner with important partners in health and safety including public health departments, law enforcement, and youth leaders.

9) EFFECTS ON PUBLIC HEALTH

- Minimal change of high school students using marijuana from 2013-2019 (21% vs 24%)
- Potency of products in the main concern at an education, safety and health standpoint – dabbled
- Delivery Considerations:
 - Driver safety (use while delivering), ID verification, daily limits difficult to track, normalization of marijuana use (perceived as the least harmful substance by youth)

REQUEST FOR FEEDBACK ON NEXT STEPS

- Community Survey > determine strategy forward
- Formal vote
- Ordinance adoption (no formal vote)
- Additional research/information needed

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PRESENTATION #1 – FEB 2ND 2021

BACKGROUND

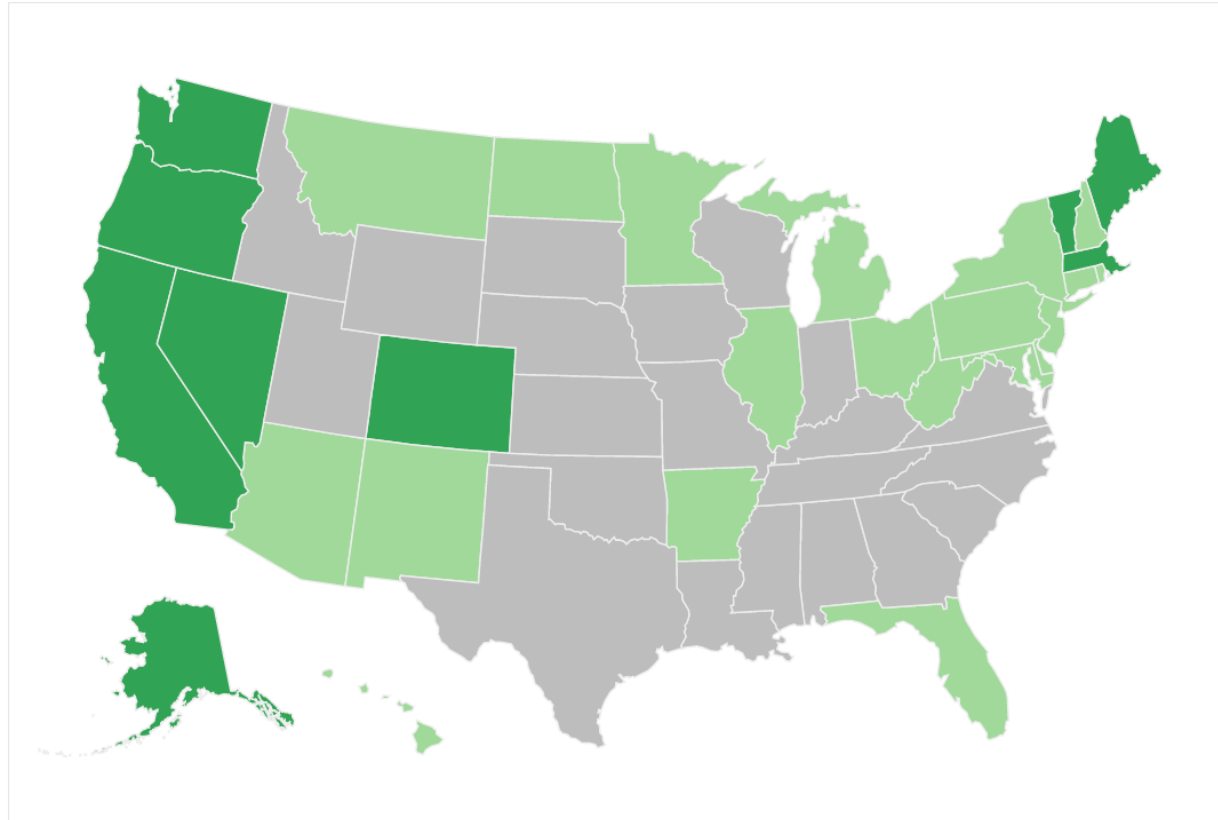
- Amendment 64 passed in 2012. At that time, BoT chose not to permit the sale of marijuana products in Erie.
- In 2016 Town formed a Retail Marijuana Ad-Hoc Committee to review whether the permanent ban on the sale of marijuana products in Erie should be lifted. In 2017, the BoT voted to continue the ban.
- With many changes in the cannabis industry, and use in Erie by individuals, the BoT requested Town staff reexamine this issue in 2021.

U.S. Cannabis Laws

Recreational marijuana states

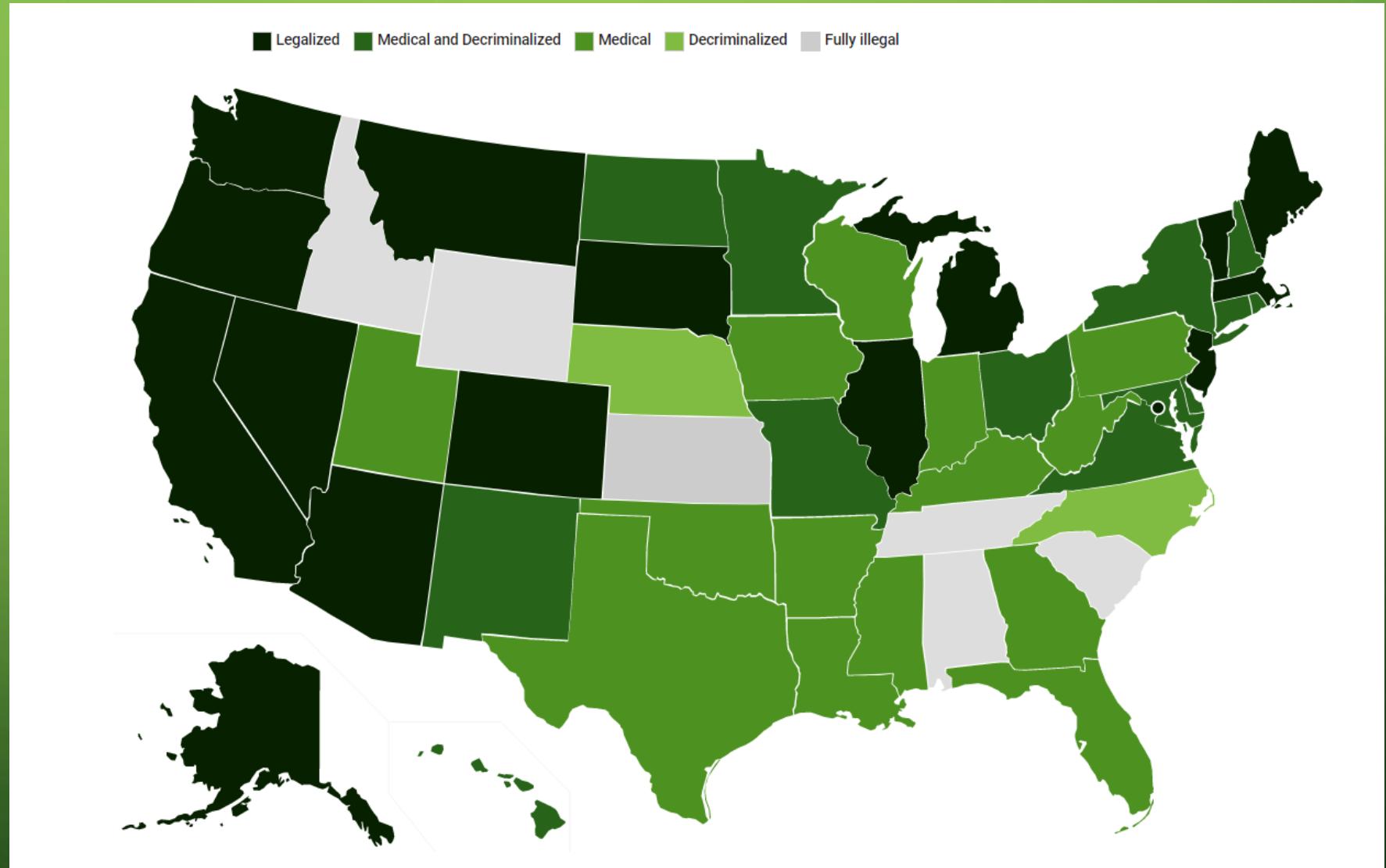
Medical marijuana states

Marijuana prohibition states

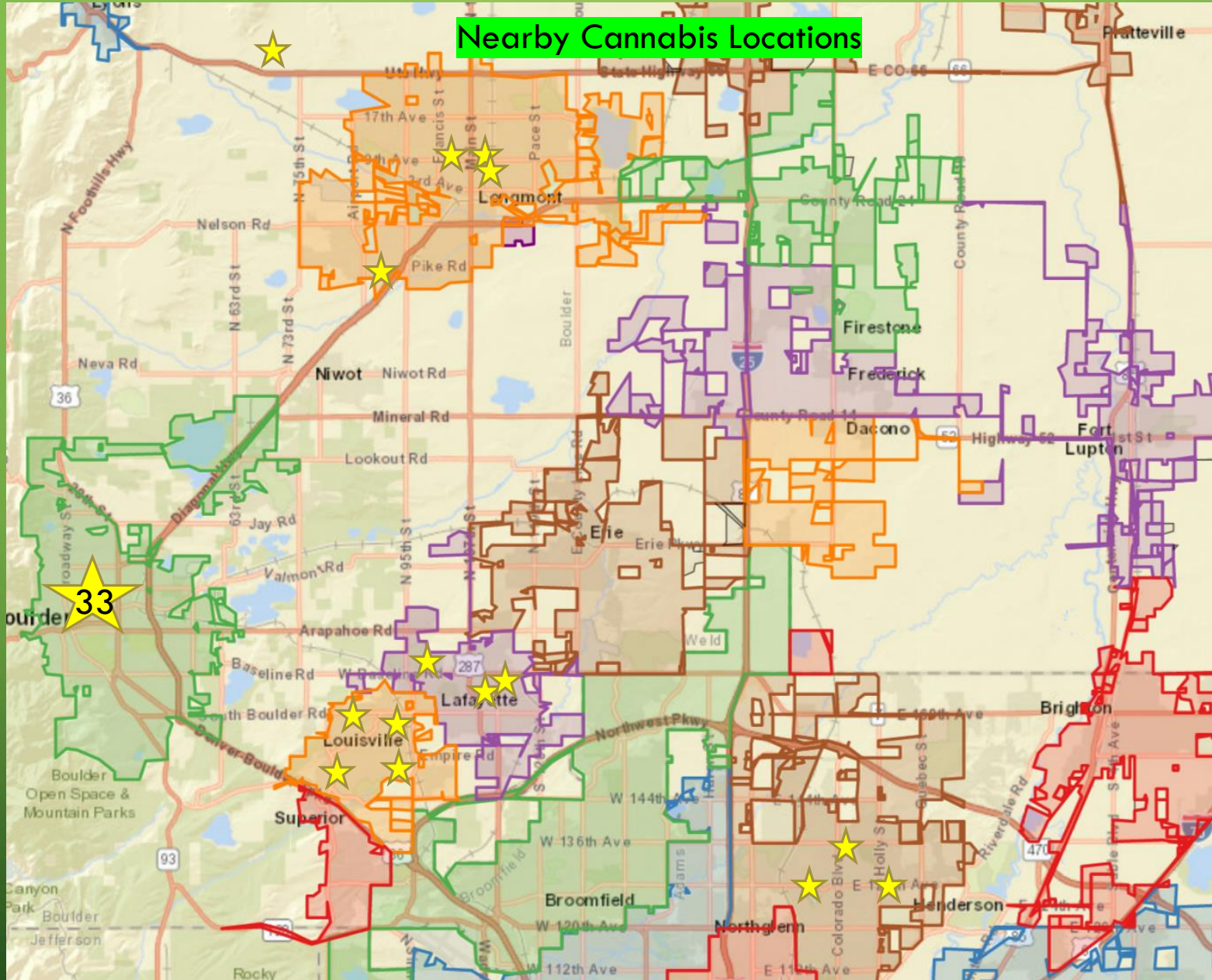


CURRENT MAP OF LEGALIZED MARIJUANA USE BY STATE

As of January
2021, only 8
states prohibit
any use of
marijuana



Nearby Cannabis Locations



NEARBY COMMUNITY COMPARISONS – ACTIVITY & TAX RATE

- Allowed activities: Sales, cultivation, manufacturing and testing
 - Boulder – (33) 5% excise tax, 3.5% sales tax
 - Lafayette (3)- Sales and excise tax 5%; up to 10%
- Allowed activities: Sales, cultivation and testing
 - Louisville (4) – 5% excise tax on cultivation
- Delivery only (no sales tax)
 - Superior
- Testing only.
 - Broomfield - 5% excise tax
- Sales only
 - Longmont (4) - 3.5% sales tax; 3% excise tax with authority up to 15%

PROS & CONS EVALUATION CRITERIA

- Background to 2017 decision
- Economic impact (tax revenue, job creation, private investment)
- Regulatory controls
 - Licensing and inspection
- Health and welfare
- Public safety and law enforcement

POTENTIAL TAX REVENUE FOR ERIE

- Based on data from 17 CO cities on total revenue from all cannabis related sources (including State shared revenue¹), and expenses associated with administration and enforcement, the average net revenue per capita for CO cities is about \$22.00/Capita.
- Based on that figure, a city of 30,000 could reasonably expect to see net revenue of \$660,000 annually.
- Based on other factors and alternative approaches to estimating potential revenue and expenses, Town staff estimates net revenue for Erie could range from \$250,000 to \$500,000 annually.

(1) State redistributes 10% of total revenue received from its 15% Excise Tax on marijuana. The State has two 15% tax impositions; only one is shared with the cities that sell marijuana.

STEPS TO LEGALIZE

Board decides on strategy to move forward

Draft ordinance, licensing fee and schedule (with input from Town staff and BOTs)

Board adopts licensing and permit process

Introduce measure to residents for vote (if Town wants to tax the use –recommended)

STATE SETBACKS OR LOCATIONAL RESTRICTIONS

- CRS 44-10-311(1)(d)(I) - a medical marijuana dispensary cannot be located within 1,000 feet of “school; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential child care facility”
 - Option for local government to waive requirements
- MED 3-735 - Regulated Marijuana Business cannot advertise on any outdoor sign that is within 500 feet of an elementary or secondary schools, places of worship, or public playgrounds
- Ultimately, the Town decides the location for both medical and retail marijuana businesses, with one minor caveat for advertising.

THINGS TO CONSIDER TO ADOPT AN ORDINANCE PERMITTING THE SALE OF MARIJUANA

- Operated similarly to liquor license with Municipal Judge as Hearing Officer.
- Identify zone, odor, distance, and other restrictions
 - We can be as restrictive/flexible with ordinances (sexually oriented businesses)
 - 2015 International Building Code (Town adopted) - marijuana retail establishment = Group M Occupancy (Mercantile)
- Drafting ordinance
 - Drafted from Marijuana code title 44, or a nearby “successful” municipality (Thornton)
 - Residential vote to tax > Ballot in Nov. 21 or wait until April 22

REQUEST FOR FEEDBACK ON NEXT STEPS

- Community survey
- Formal vote
- Ordinance adoption (no formal vote)
- Additional research/information to provide

APPENDIXES

- Police Chief Summary
- Other nearby cities' experience
- Other cities that do not allow marijuana sales
- Lakewood experience with ballot measure sponsored by cannabis lobbyist
- Allocation of State Marijuana revenue
- Erie Amendment 64 Election results
- 2015 Community Survey results

CHIEF STEWART'S RESEARCH

- Information was gleaned from four (4) law enforcement departments.
- If the direction is to move forward, the Erie Police Department will ensure we are ready for what the future may hold in terms of dispensaries.

CITY OF LONGMONT

- Longmont has 4 dispensaries; 3 are recreational and 1 is medical/recreational.
- Longmont does not have many enforcement issues or concerns related to dispensaries possibly because they provide training to the dispensary employees similar to liquor enforcement training.
- 2 officers oversee the dispensaries. The State has a marijuana enforcement office in Longmont and this office provides the majority of oversight for the dispensaries.
- The City of Longmont has very strict rules and regulations with the establishments. Longmont has thus far had good luck working with the owners and they seem willing to correct issues right away.

CITY OF LAFAYETTE

- Lafayette has 3 dispensaries which are each medical/recreational.
- They do not have many enforcement issues or concerns. At the inception of the dispensaries, they had an armed robbery and a few compliance issues.
- Their Detective Section is assigned the task of enforcement.
- Not much time is spent on enforcement on a regular basis. Up front, Detectives conduct backgrounds which take some time.
- The only thing Lafayette PD would have liked to have changed was the process for licensing with the City. Backgrounds seemed to take a priority over their case load.

CITY OF LOUISVILLE

- Louisville has 4 dispensaries which are all medical/recreational.
- They have had a couple of burglaries which were pretty significant.
- Their largest issue is public consumption in parking lots or nearby hotels. When the movie theater was open, they had even more issues with public consumption.
- No specific officer is assigned as a marijuana officer.
- Other than extra patrols or responding to a calls, they do not spend much time at the dispensaries.
- Location is very important for Louisville. Optimally, dispensaries should be near a highway or in a business district vs. putting one near a neighborhood or school.

CITY OF THORNTON

- Thornton has 3 dispensaries which are all medical/recreational.
- Ownership and transfer of ownership to employees require necessary backgrounds and fingerprinting. Managers are required to be fingerprinted once a year for regulating purposes.
- They have only had one burglary. They conduct compliance checks to ensure the dispensaries are following regulations.
- 1 Detective is assigned as the marijuana officer; this detective is also assigned to process registered sex offenders and provide liquor enforcement checks.
- 40% of the Detective's time is spent working compliance and regulatory issues with the dispensaries.

OTHER JURISDICTIONS CONTACTED WHICH DO NOT ALLOW DISPENSARIES AS OF 1/25/2021

- Broomfield approximately 68,000 population
- Loveland approximately 77,000 population
- Grand Junction approximately 62,000 population
- Castle Rock approximately 88,000 population
- Windsor approximately 27,000 population
- Firestone approximately 20,000 population
- Frederick approximately 13,000 population

CITY OF LAKEWOOD

- “better to control your own destiny”
 - Council did not take action and a community ballot was brought to a vote via a cannabis lobbyist.
 - Limits permits to existing medicinal retailers
 - Does not tax beyond normal sales tax
 - Ordinance not written by your “standard professionals” – has created many difficult nuances

[illegible][illegible]

STATE MARIJUANA TAX REVENUE ALLOCATION

TAX REVENUE OVERVIEW

The State collects three types of taxes on marijuana products. The following graphic (designed by Legislative Council Staff) illustrates the allocation of state tax revenue related to marijuana. A discussion of each type of tax and the allocation of the associated tax revenue follows.

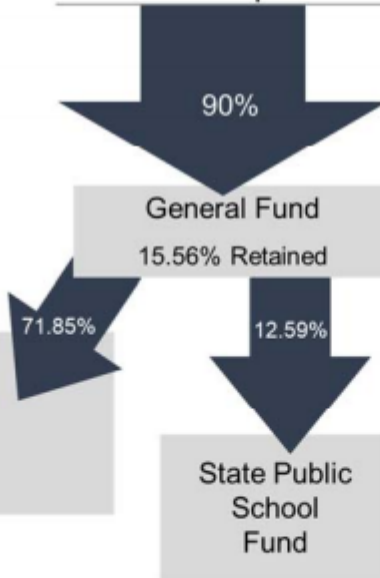
Medical Marijuana

2.9% Sales Tax

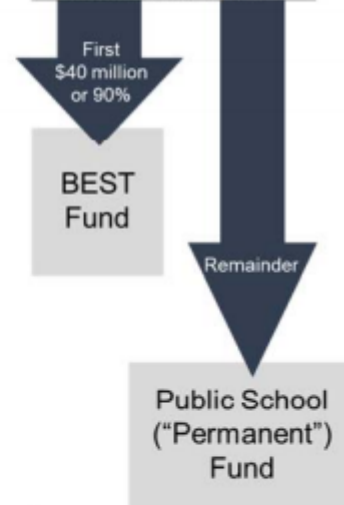


Retail Marijuana

15% Special Sales Tax



15% Excise Tax

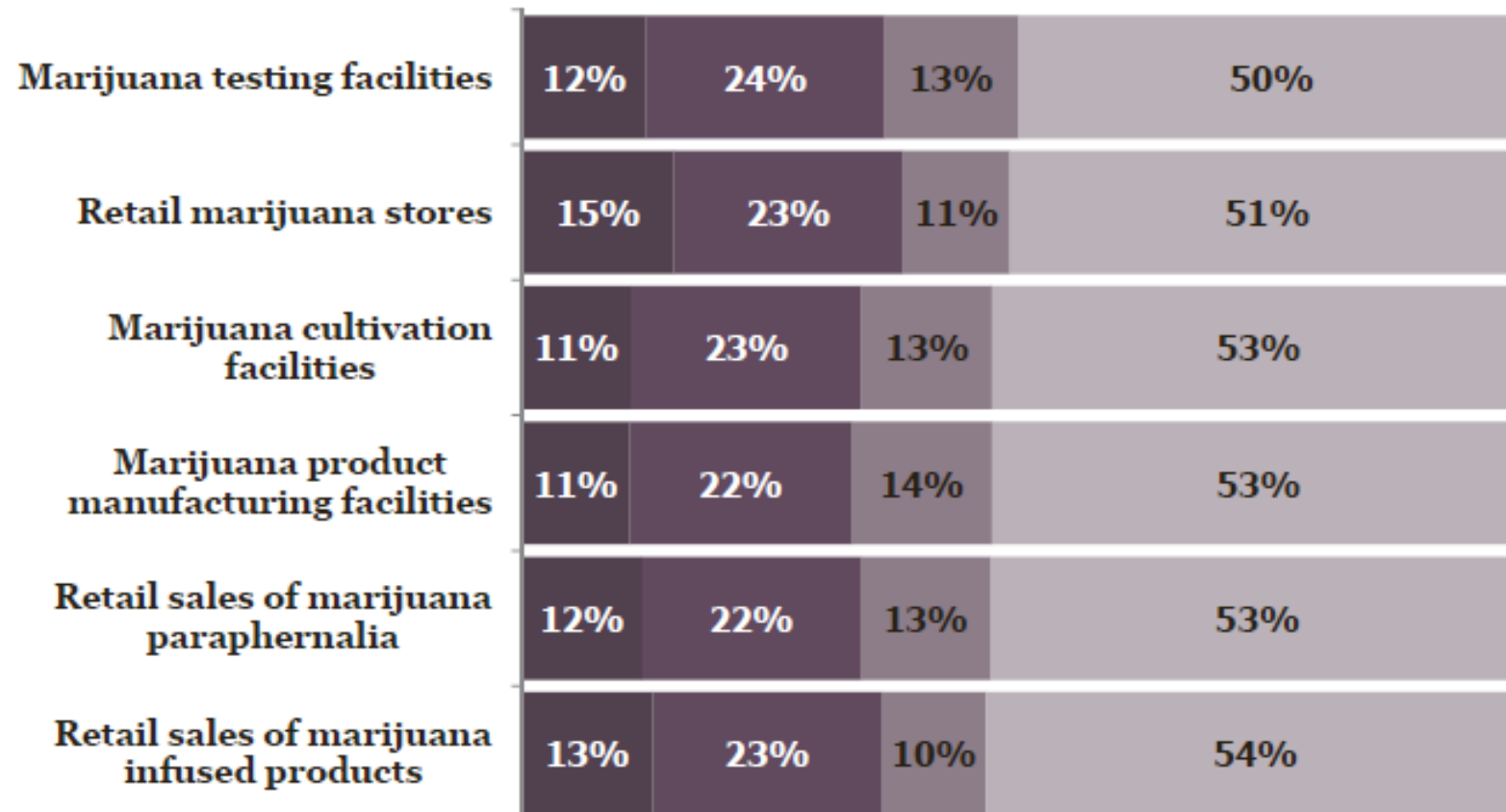


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2015 COMMUNITY SURVEY RESULTS

Retail Marijuana Businesses

■ Strongly support ■ Somewhat support ■ Somewhat oppose ■ Strongly oppose

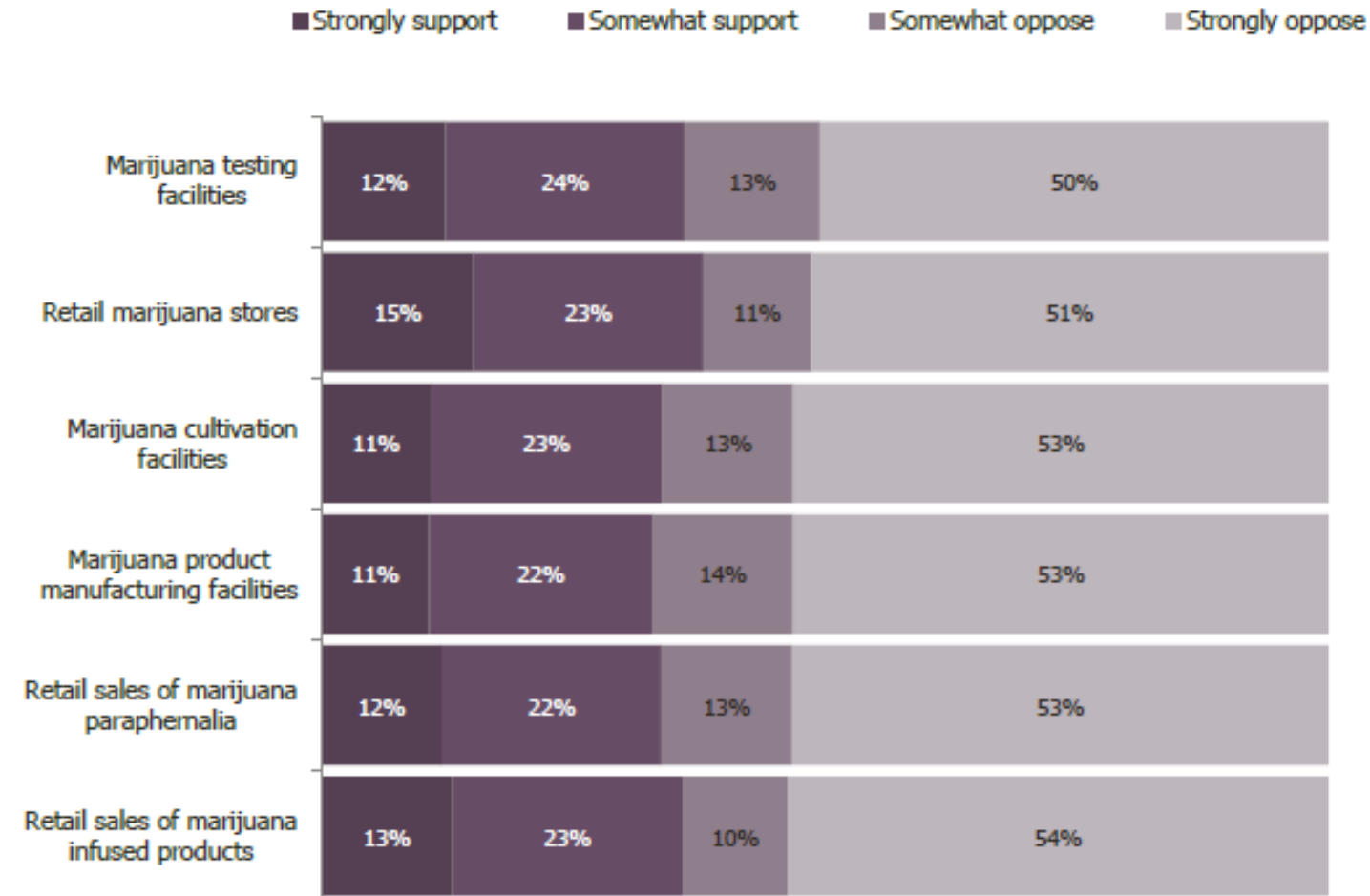


Special Topics

The Town of Erie included five questions of special interest on The NCS. The first question asked residents to indicate their support or opposition for potential future types of retail marijuana businesses. A majority of respondents strongly opposed all type of retail marijuana businesses listed.

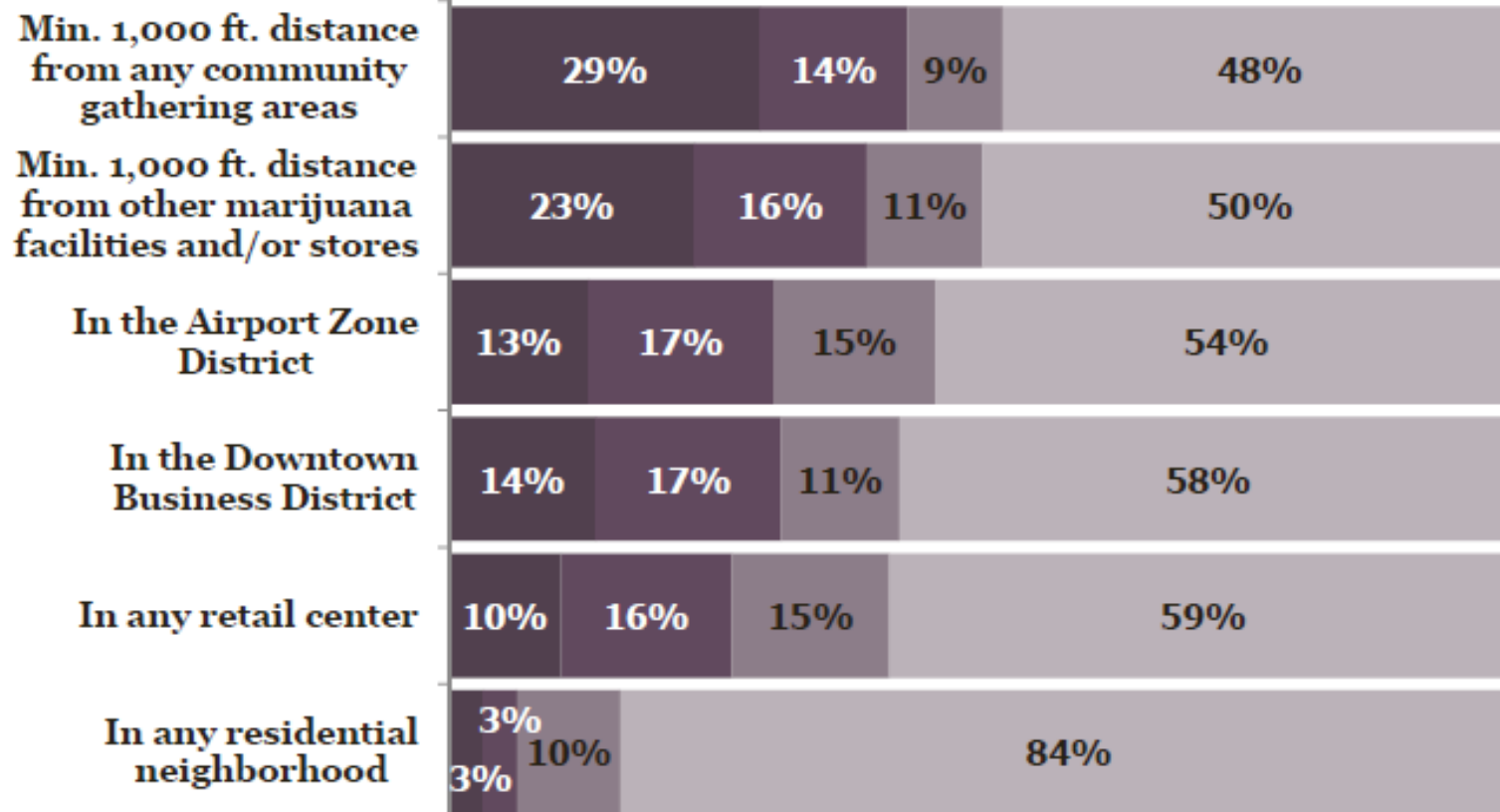
Figure 4: Retail Marijuana Businesses

The current moratorium on retail marijuana businesses in Erie is set to expire on December 31, 2015. Please indicate how much you would support or oppose each of the following in the future within Town limits:

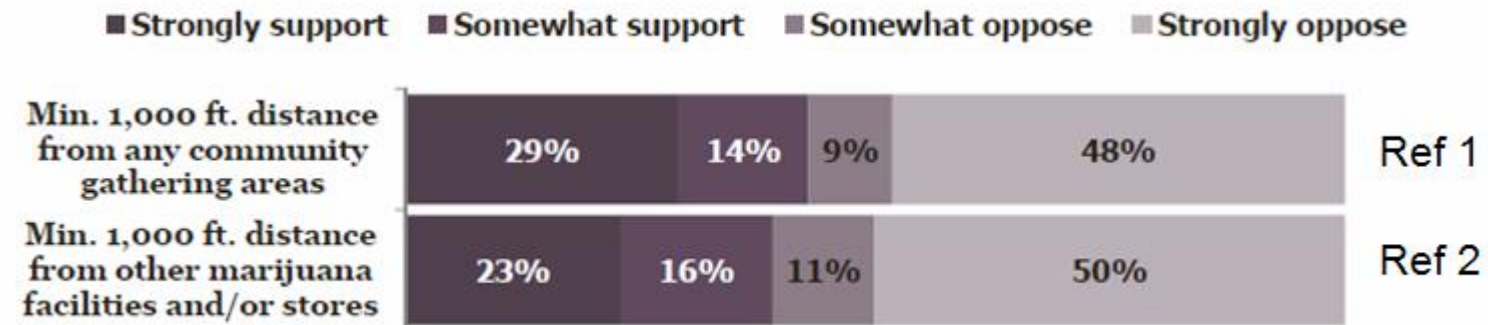


Retail Marijuana Locations

■ Strongly support ■ Somewhat support ■ Somewhat oppose ■ Strongly oppose



Retail Marijuana Locations



43% Support 1000 ft. minimum distance

57% Oppose the 1000 ft. minimum distance

It is unclear if this means the 57% want the 1000' distance to be greater or if they do not want such a location at all. (See Ref 1)

The question (Ref 2) related to the separation between stores/facilities is similar in nature. No specific conclusion can be derived from the results. It does, however, support the opposition (60% +) identified for **Businessess**.

Retail Marijuana Locations



The questions related to specific locations (Ref 3s) identified opposition to each mentioned location in Erie. These results appear consistent with the initial discussion of the Marijuana Committee as to potential acceptable location(s). This initial discussion focused on the commercial area along I-25 which is away from future residents, schools and other such facilities would achieve protected separation requirements.

Compared to the Amendment 64 Results (45% "NO") – 2015 Survey Results Are **More Negative With Respect to Establishing Stores in Erie** (60%+ Against)

Table 48: Question 14

The current moratorium on retail marijuana businesses in Erie is set to expire on December 31, 2015. Please indicate how much you would support or oppose each of the following in the future within Town limits:	Strongly support		Somewhat support		Somewhat oppose		Strongly oppose		Don't know		Total	
Retail marijuana stores	15%	N=176	22%	N=264	11%	N=125	50%	N=595	2%	N=27	100%	N=1187
Marijuana cultivation facilities	11%	N=126	23%	N=267	13%	N=151	52%	N=615	2%	N=25	100%	N=1185
Marijuana product manufacturing facilities	10%	N=124	22%	N=256	14%	N=162	52%	N=613	3%	N=31	100%	N=1186
Marijuana testing facilities	12%	N=143	23%	N=273	13%	N=155	49%	N=581	3%	N=33	100%	N=1184
Retail sales of marijuana infused products	13%	N=151	22%	N=265	10%	N=121	53%	N=622	2%	N=24	100%	N=1183
Retail sales of marijuana paraphernalia	12%	N=139	21%	N=252	13%	N=150	52%	N=617	2%	N=27	100%	N=1186

Table 49: Question 15

Please indicate how much you would support or oppose the following potential locations for retail marijuana facilities within the Town of Erie:	Strongly support		Somewhat support		Somewhat oppose		Strongly oppose		Don't know		Total	
In the Downtown Business District	13%	N=157	17%	N=199	11%	N=127	56%	N=664	3%	N=31	100%	N=1179
In any Light Industrial zone	17%	N=201	21%	N=253	12%	N=141	46%	N=543	4%	N=44	100%	N=1183
In the Airport Zone District	12%	N=145	16%	N=193	14%	N=168	51%	N=604	6%	N=71	100%	N=1180
In any retail center	10%	N=120	16%	N=184	14%	N=169	57%	N=674	3%	N=31	100%	N=1178
In any residential neighborhood	3%	N=37	3%	N=37	9%	N=111	83%	N=967	2%	N=18	100%	N=1169
Minimum 1,000 ft. distance from any community gathering areas (e.g., churches, schools, parks, etc.)	28%	N=328	13%	N=157	9%	N=100	46%	N=544	4%	N=45	100%	N=1174
Minimum 1,000 ft. distance from other marijuana facilities and/or stores	21%	N=239	15%	N=168	10%	N=113	45%	N=520	10%	N=115	100%	N=1154