

# Marijuana Working Group Report

MMJ “Hardship” Recommendations  
October 24, 2016



# Current MMJ Moratorium

Ordinance 16-57

- Prohibits the City from accepting or reviewing any application for new MMJ facilities or the Change of Location of an existing MMJ facilities (through and including May 25, 2017)
  - A Modification of Premises (including expansion of licensed premises) is not subject to current moratorium, however needs to be in compliance with current/existing zoning and building/fire code compliance for the modified premises (may or may not require conditional use process/permit through Planning Commission).

# Current MMJ Moratorium

Ordinance 16-57

- Current Change of Location Hardship Criteria:
  - Based on leasehold which will expire during the moratorium period only (no other “hardship” circumstances or exceptions are included):
    - Proof that the current leasehold may not be extended or held over
    - Proof of written notice of termination that will occur during the moratorium based solely on the expiration of the lease
    - Proof that there is no applicable option to purchase the leased property

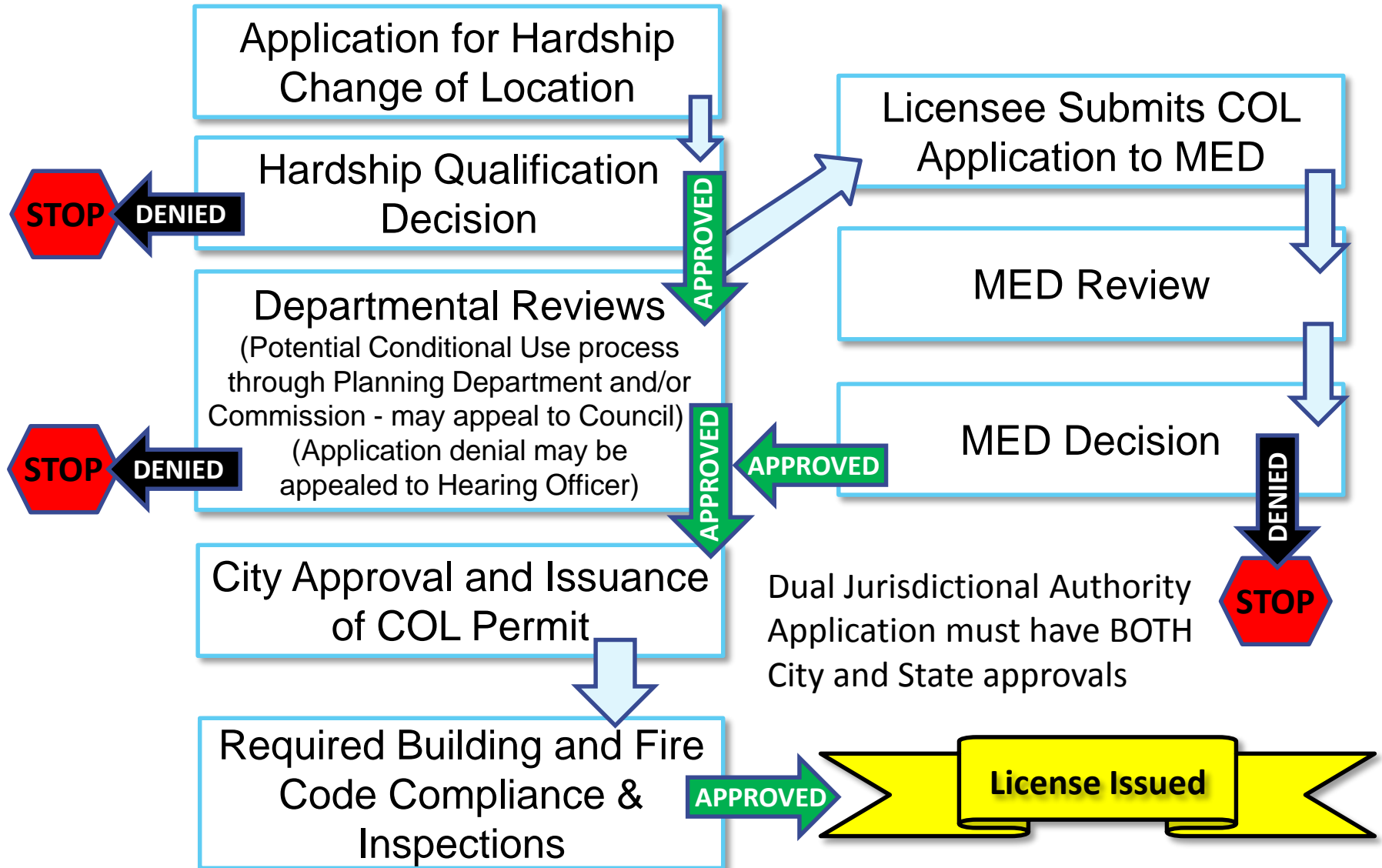
# Current MMJ Moratorium

Ordinance 16-57

- Current Change of Location Hardship Process:
  - Licensee submits hardship request with Change of Location application. This request is reviewed by City Clerk based on Ordinance 16-57 hardship criteria.
  - If licensee qualifies under current hardship criteria, the new location must be in compliance with current/existing zoning before application is approved:
    - May or may not require “conditional use” process and approval by Planning Commission for new location .
    - New location requires current building/fire code compliance before authorization to move is received.

# MMJ Change of Location Process (COL)

(Current Moratorium and State/City Code Requirements)



# MMJ Change of Location Requests

(Inquiries to Clerk's Office)

- 1 Licensee qualified and approved for hardship change of location (2 locations).
- 2 Licensees that may qualify, but have not yet submitted a hardship request.
- 9 known cases of MMJ licensees who desire a Change of Location, but do not meet the current hardship criteria.
- Approximately 8-10 additional verbal inquiries:
  - Some from licensees exploring possibilities of moving to larger facilities
  - Some from landlords/property owners with available buildings on market

## Identified Redevelopment Areas

- EOZs
  - North Nevada
  - South Academy
- URAs
  - Existing and Potential
- Downtown
- CAZ

# Urban Renewal Areas



- Existing urban renewal plans are NOT land use plans or zoning overlays
- Properties within urban renewal areas are regulated by existing zoning
- City has no authority to prohibit marijuana uses on a property solely based on being within an urban renewal area
- To regulate uses - new zoning or overlays would need to be adopted





# Economic Opportunity Zones



- EOZ reports are NOT land use/regulatory documents
- Adopted for strategic planning purposes
- To regulate uses - new zoning or overlays would need to be adopted

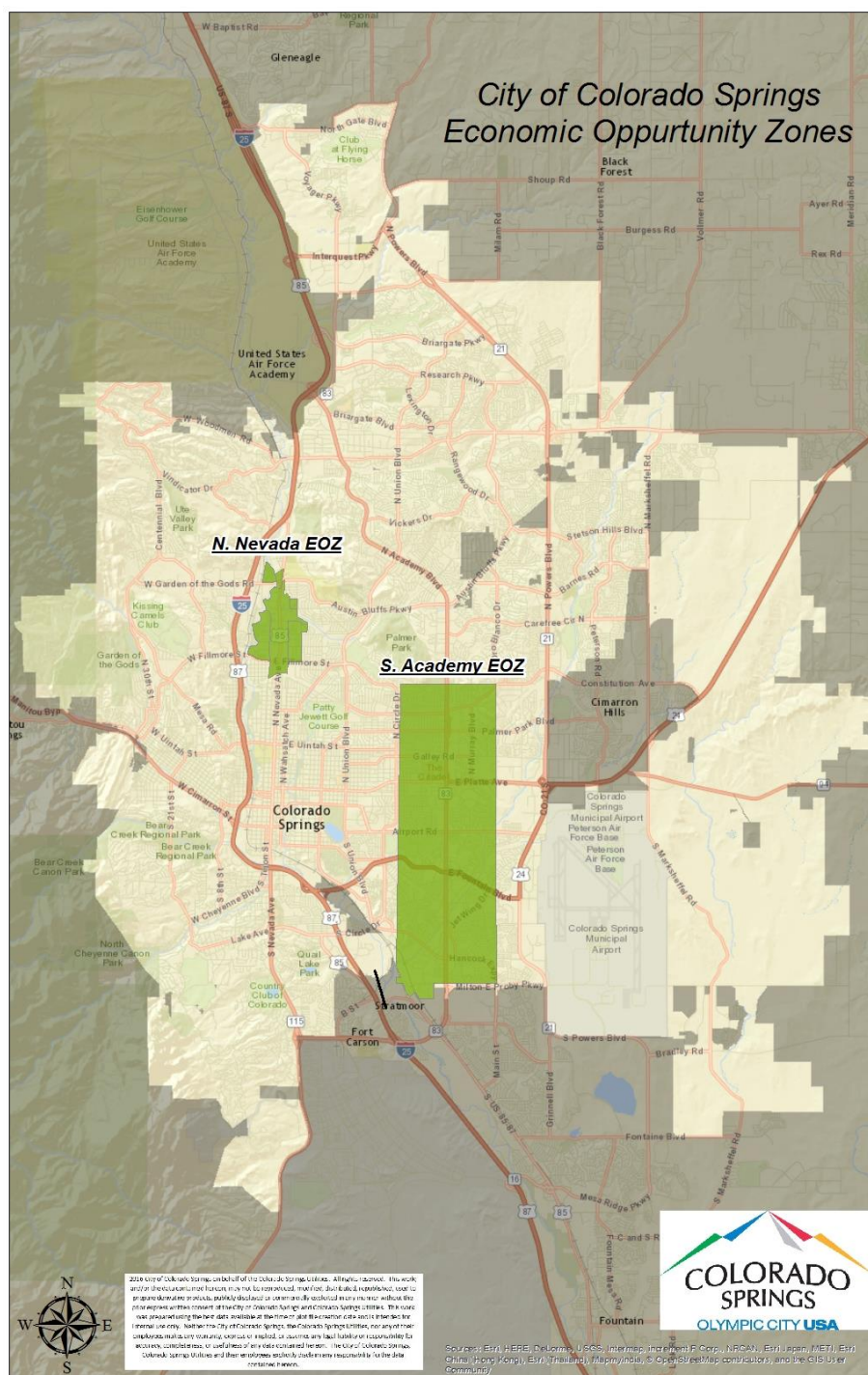
# Renew North Nevada Ave. Redevelopment Plan



- The area will likely be rezoned – hard zoning or overlay
- New zoning could include different regulations or prohibition of marijuana uses
- Anticipated adoption of redevelopment plan in March 2017

# EOZs

## City of Colorado Springs Economic Opportunity Zones

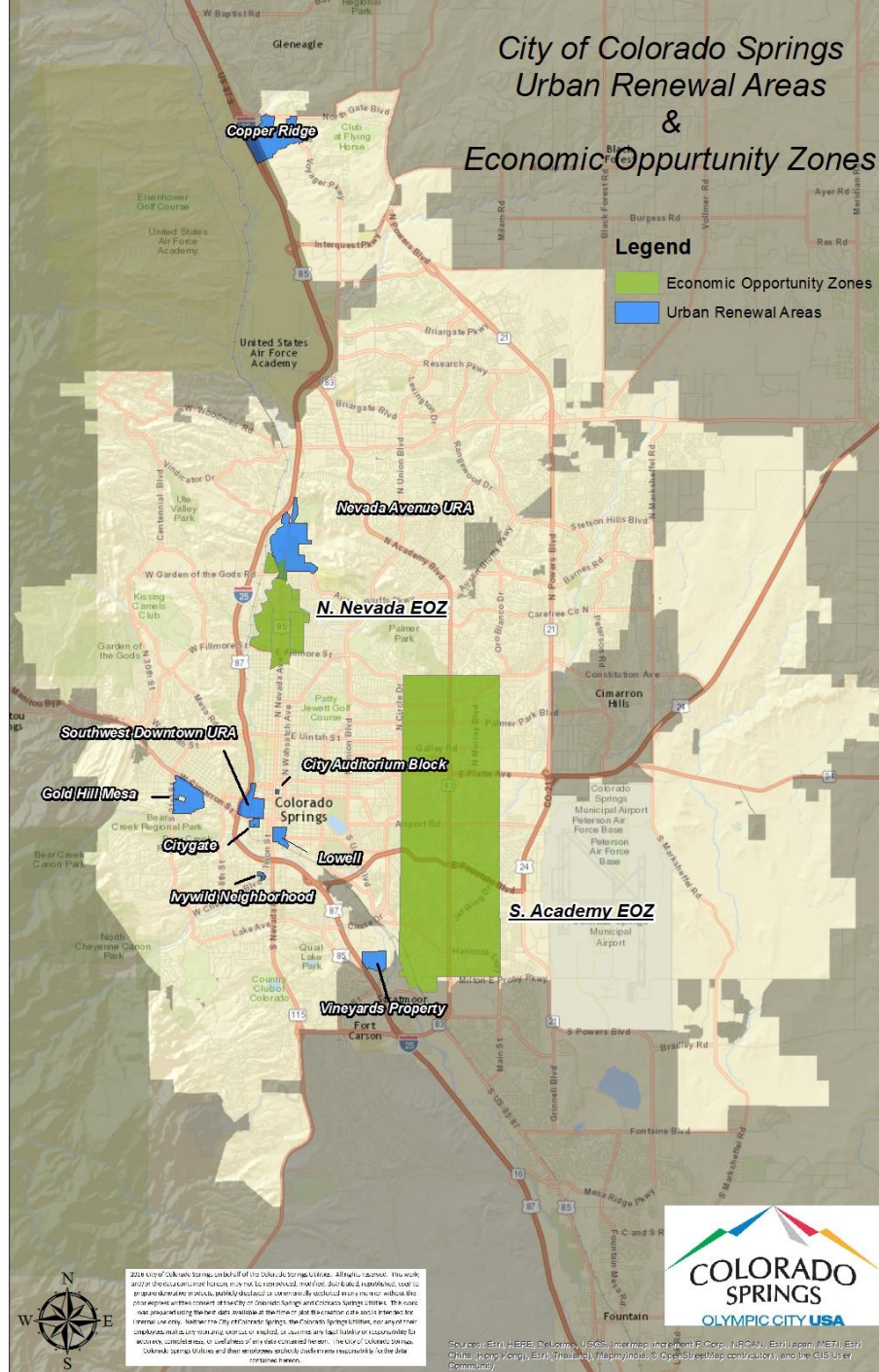


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# URAs &EOZs

## City of Colorado Springs Urban Renewal Areas & Economic Opportunity Zones



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Sources: Esri, HERE, DeLorme, USGS, Intermap, iPC, NRCAN, Esri, Japan, METI, Esri, Swisstopo, Swisstopo, Esri, Teichmann, Mapbox, Swisstopo, Swisstopo, contributors, and the GIS User Community

# Relocation During Moratorium



- Will need to comply with the newly adopted zoning regulations
  - Example: existing lawfully operating grow operation moving from C-6 to another C-6 would require a conditional use approval by CPC; if moving to M-1, it would be a permitted use by right (but may need a development plan or amendment to development plan)

## Identified Redevelopment Areas

- EOZs
  - North Nevada
  - South Academy
- URAs
  - Existing and Potential
- Downtown
- CAZ

# Other Areas?



- Currently Identified
  - Downtown
  - CAZ – Airport
- Identified in the Future?
  - Circle Drive corridor?
  - East Platte corridor?
  - East Fountain corridor?
  - Others?



# Challenges



- Typically a higher concentration of MJ
- Incompatible Co-Tenancy issues – limits the tenant pool
- Many landlord's do not allow MJ in prosperous, thriving areas
- Disincentive for new investment
  - Example: GAS and Grass South Nevada

# Administration Recommendations

- Maintain current moratorium as is:
  - Affords time to discuss important issues not completed by MMJ Task Force, including completing discussion and work on Economic Opportunity Zones (EOZ) and Urban Renewal Authority (URA) areas and the impact MMJ facilities may have in those influence areas.
  - Further exceptions may create additional legal non-conforming conditions after EOZ/URA plans are finalized and moratorium expires

# Administration Recommendations

(Continued)

- Industry proposed specific exceptions excludes other “economic hardship” scenarios, and may create an “unleveled playing field” for other industry licensees
- Expanding current “hardship” qualifications to include economic reasons is contrary to a basic reason for the moratorium, that of being a “time out” for continued land use discussion and decisions

# MMJ Industry Recommendations

- I. No new MMJ licenses (new cap on MMJ licenses or continued moratorium on new MMJ licenses)
  
- II. Allow change of locations:
  1. Allow all changes of location, subject to new May 2016 amended zoning code and conditional use process; **or**
  2. Allow specific exceptions to moratorium on changes of location to permitted or “use by right” identified locations

# MMJ Industry Recommendations

(Continued)

2. Proposed change of location exceptions:
  - A. Allow changes of location from legal non-conforming (grandfathered) locations to new conforming locations
  - B. Allow changes of location to consolidate operations to an existing approved location
  - C. Allow changes of location for MMC within same approved parcel locations

# MMJ Industry Recommendations

(Continued)

## Scenario A:

Existing licensed OPC and/or MIP in a commercial zone (e.g., C5, C6, or PBC) requests change of location to a proposed new facility location in an industrial zone (M1 or M2 – permitted “use by right”)

- Relieves a legal non-conforming condition
- Reduces commercial neighborhood impact

# MMJ Industry Recommendations

(Continued)

## Scenario B:

Existing OPC and/or MIP in a commercial zone (e.g., C5, C6, or PBC) requests change of location to a commonly owned and existing licensed OPC or MIP location in an industrial zone (M1 or M2 – permitted “use by right”)

- Relieves a legal non-conforming condition
- Reduces commercial neighborhood impact

# MMJ Industry Recommendations

(Continued)

Scenario C:

Existing licensed MMC (storefront) requests change of location to a new facility address, but in the same approved parcel/location (e.g., in the same strip mall)