

Marijuana Working Group Report

MMJ “Hardship” Recommendations
September 26, 2016



Current MMJ Moratorium

- 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)
- 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

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)

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

Marijuana Working Group Report

MMJ "Board" Recommendation
September 26, 2016

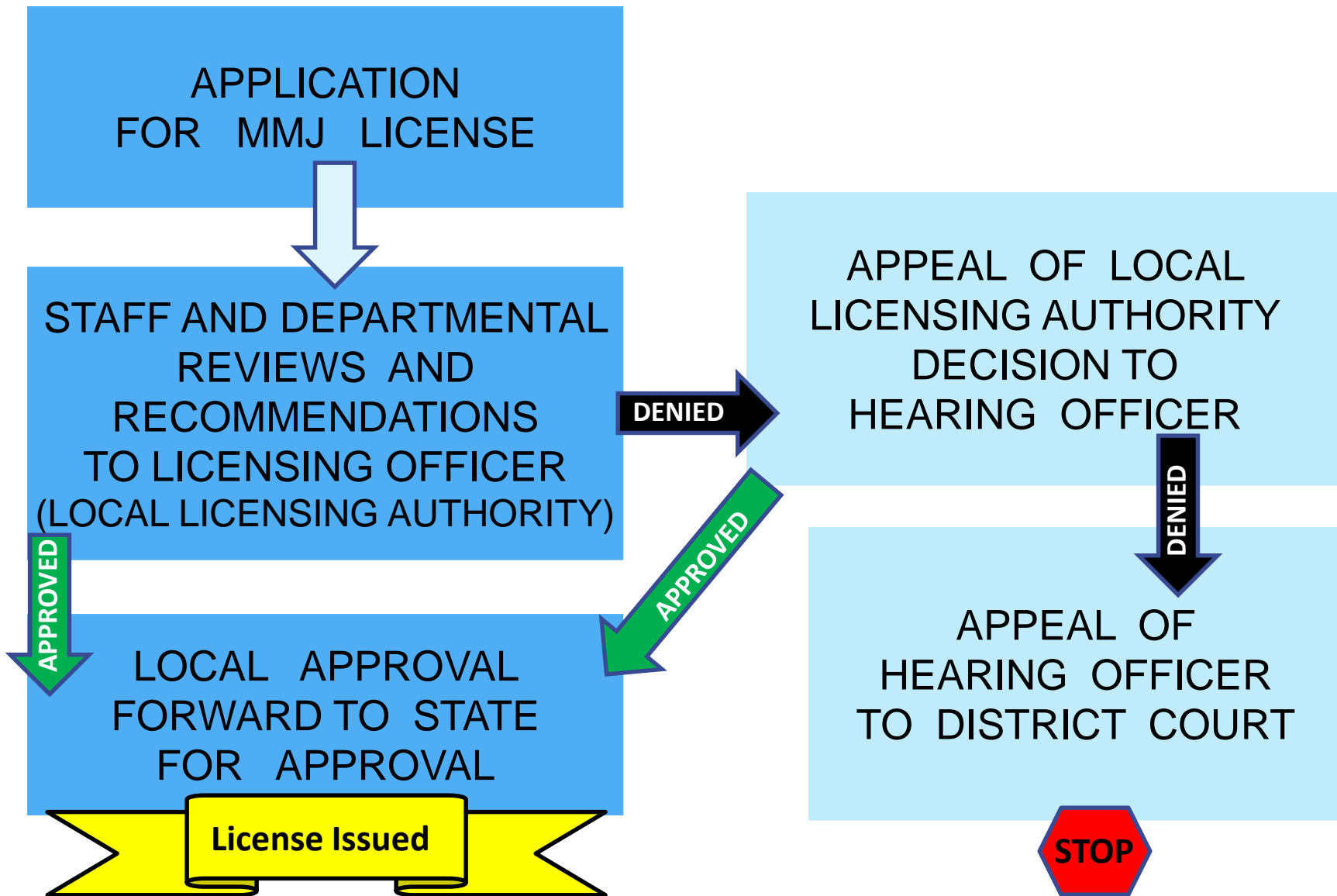


MMJ Licensing Code

- City Code and Rules are supplementary to State Statute and Marijuana Enforcement Division (MED) Regulations
 - MED Goals :
 - Keeping MJ out of hands of person under 21 years of age
 - Preventing involvement of criminal element or enterprises
 - Preventing diversion to other states from regulated environment/businesses
- In concert with MMJ Statute and Rules, City MMJ Code and Rules are, in part, an effort to provide guidelines for “clear and unambiguous compliance” in this highly regulated business model

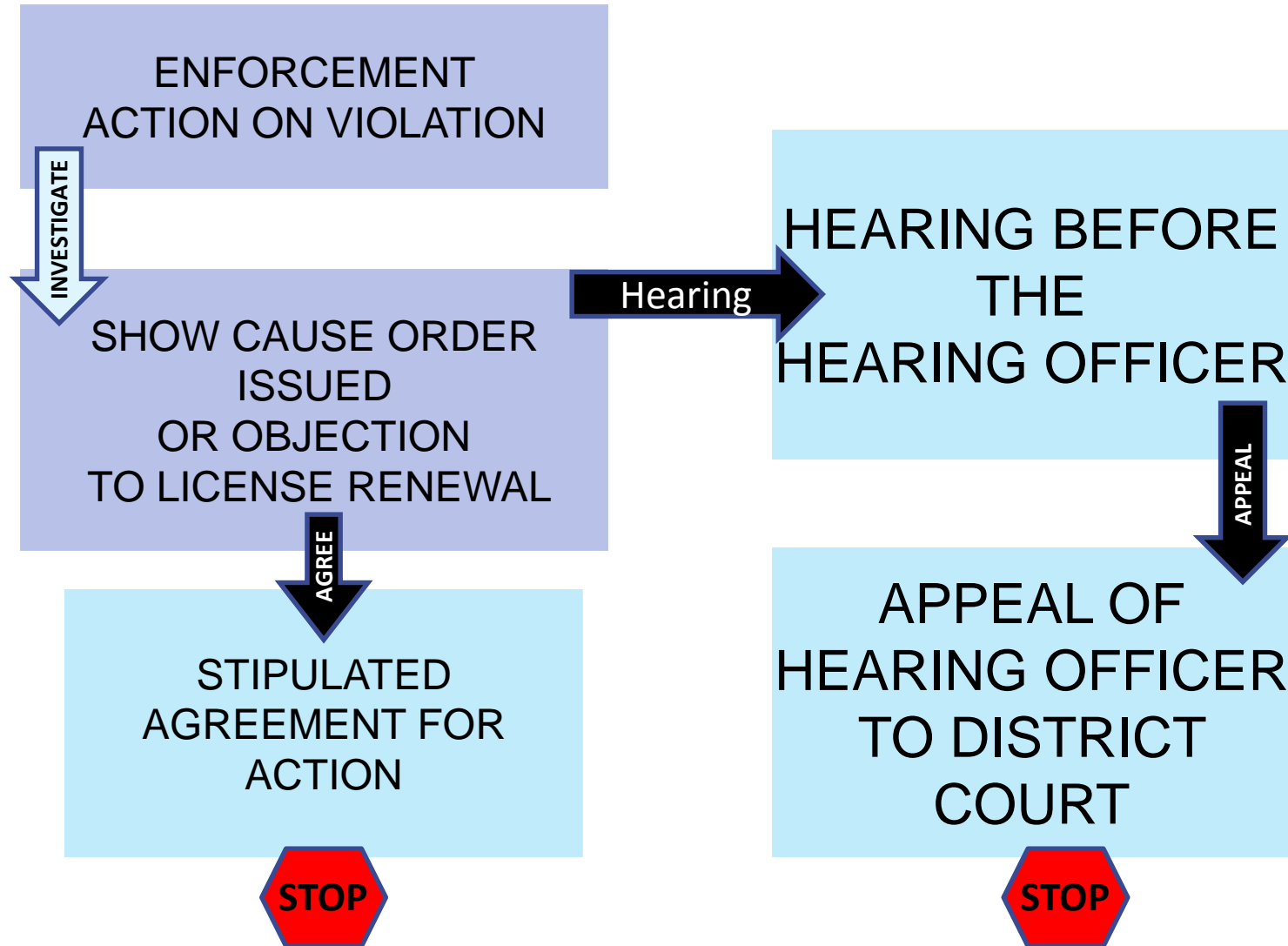
MMJ Business Licensing Decisions

(Current City Code and Rules Requirements)



MMJ Business Disciplinary Decisions

(Current City Code and Rules Requirements)



- MMJ Board not required by State law (same with Liquor licensing)
 - Discussed at State level in 2009-2010; determined not applicable
 - Discussed at City level in 2010-2011; determined not applicable (MMJ facilities are not open to the public)
- Current process:
 - Staff & departmental review and recommendation of application (existing clear guidance on qualification criteria and burden of proof)
 - All required hearings are currently held before a Hearing Officer
 - Appeal of application decision
 - Suspension or revocation hearings
 - Hearing Officer decision is final agency action, appealable to District Court
- Changing from the current Hearing Officer to a “Board” format would add additional layer of review and approval, extending processing and decision timeframe

MJ Working Group - Recommendation

- Recommend no changes to the licensing and appeal process at this time
 - Discussion at multiple meetings resulted in unanimous consensus
 - Most other Colorado jurisdictions do not have a Board format, and those that do appear to be moving from a Board to a Hearing Officer model, (including Liquor licensing)
- Working Group does see a need for an ongoing working or task group to be a forum for new ideas and continued discussion in this still evolving regulatory environment