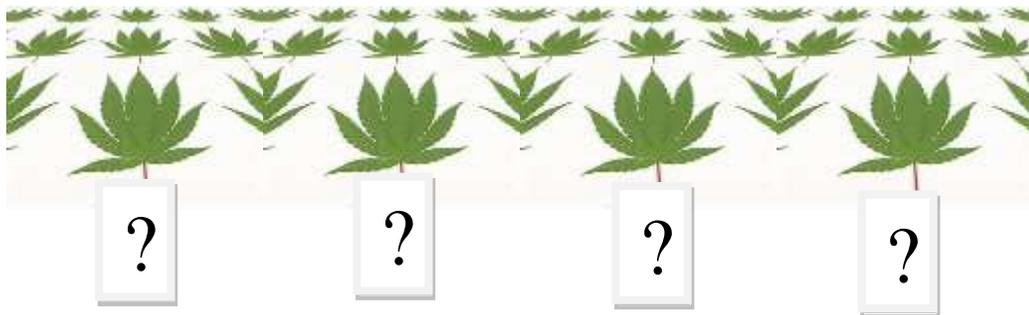


Durango Doings

Chapter 19: Durango's Licensing of Marijuana



~a brief history of a complex development~



Published 2015 by City of Durango (Colo.); last updated 2/19/2021.

Permission to copy is granted, but not for sale or profit.

**This is available as a free downloadable eBook,
or ask for it in print at City Hall, 949 East 2nd Ave, Durango, CO 81301.
Online, *Search for Keywords in the Historical Documents* for the word
“marijuana” at <https://durangogov.org/records>**

Table of contents:

A synopsis of the electoral basis for marijuana sales in Colorado.....	377
A case of states' rights vs. federal law.....	378
State and local challenges posed by the legalization of marijuana.....	379
Marijuana legislation and licensing in Durango (Ordinances and Resolutions).....	380
Eyes on potential tax revenues from the sale of marijuana.....	388
Further complexities about the sale of marijuana.....	389

Cataloging-in-publication data:

City of Durango (Colo.)
Durango's licensing of marijuana/ by J. Todd Ellison
16 p.
Marijuana—Colorado—Durango—History.
Marijuana—Law and legislation—Colorado.
Marijuana—Therapeutic use—Law and legislation—Colorado.
Drugs—Law and legislation—Colorado.
Durango (Colo.)—Politics and government.
Durango (Colo.)—History

Cover photo by Benjamin Rasmussen for *The Wall Street Journal*, 8/25/2015: Marijuana plants grow underneath water-cooled lights in the Pink House Blooms grow house in Denver, Colo.

Unless otherwise noted, the data in this is drawn from actual records of the City of Durango. For further reading, visit <https://durangogov.org/records>—which is the Public Records Portal on the City's website.

Colorado was the first state in the US to allow the sale of marijuana for recreational use. After a number of moratoriums on such sales, the City of Durango allowed it, effective as of July of 2014.



A synopsis of the electoral basis for marijuana sales in Colorado:

In the November 6, 2012 general elections Colorado was one of three states that voted on proposals to legalize marijuana, including for recreational use. 24 states had already allowed the use of marijuana for medicinal purposes (on November 7, 2000, 54% of Colorado voters approved Amendment 20, which amended the State Constitution to allow the use of cannabis for approved patients with written medical consent). Colorado voters in the 2012 election favored Amendment 64 (legalizing marijuana for recreational use) by a margin of 54% to 46%.¹ The approved amendment required the State to establish a system in which marijuana is regulated and taxed similarly to alcohol.

The nation's first legalized sale of marijuana "for recreational" use began in Colorado, on January 1, 2014. Washington State followed in July. The State of Oregon, whose voters rejected it in the 2012 election but approved it in 2014, decided to allow it as of October 1, 2015.² The first sales in Durango were on September 26, 2014, after the City of Durango ended its moratoriums on issuing licenses for recreational marijuana shops on July 1, 2014 and accepted applications to begin the lengthy process of gaining approvals for over-the-counter sales.

Under the wording of Amendment 64, adults 21 or older in Colorado can legally possess one ounce (28 grams) of marijuana (more specifically, of THC)—except on federal property. Under federal law, cannabis is a federal controlled substance; it is still classified as a Schedule I narcotic with a high potential for dependency and no currently accepted medical use. In August of 1916 the Drug Enforcement Agency reiterated that the use of marijuana anywhere in the US is in violation of federal law.³ Possessing marijuana on federal land is punishable by up to a year in jail and a fine of \$1,000 on the first offense, along with a 15-day mandatory sentence that can be extended to two years in

¹ "Coloradans say yes to recreational use of marijuana," *Denver Post* news article by Sadie Gurman, 11/6/2012, viewed online on 8/24/15 at http://www.denverpost.com/ci_21941918/nation-watches-colorados-marijuana-legalization-vote

² "Oregon to Begin Recreational Marijuana Sales Early," *The Huffington Post* news article by Matt Ferner, 7/28/2015, viewed online at 8/24/2015 at http://www.huffingtonpost.com/entry/oregon-recreational-marijuana-sales_55b7e75de4b0224d88344d2b Also, *The Oregonian* news article by Noelle Crombie, 11/4/2014, http://www.oregonlive.com/politics/index.ssf/2014/11/recreational_marijuana_passes.html

³ "Marijuana to remain illegal under federal law, DEA says," by Donna Leinwand Leger, *USA Today*, August 11, 2016, viewed online on 8/12/2016 at <http://www.usatoday.com/story/news/2016/08/11/dea-marijuana-remains-illegal-under-federal-law/88550804/>

prison for a second offense. Furthermore, it is illegal to consume marijuana "openly and publicly"—that is also a ticketable offense.

In April 2013, the Colorado Court of Appeals held in *Coats v. Dish Network* that since marijuana remains against federal law, employers can use that standard rather than state law as a rationale for banning off-the-job worker use of the drug. On June 15, 2015, the Colorado Supreme Court affirmed the judgment of the Court of Appeals. Employees who engage in an activity that is permitted by state law but unlawful under federal law, such as the use of medical marijuana, are not protected by Colorado's lawful activities statute.⁴

A case of states' rights vs. federal law:

From an historical perspective, the complex and sometimes contradictory laws regarding marijuana form an interesting case study. The election results of 2015 set up a clash of states' rights and federal regulations (as indicated in the two aspects just described). In recent years our society has increasingly been facing major public policy issues that have been decided in contrary ways by different arms of government. In cases like marijuana, states' rights and the expressed will of the majority of voters have stood, notwithstanding the federal prohibition. In other cases, federal rulings are enforced.⁵ Without a doubt, the way this has played out regarding marijuana has been convoluted and confusing.

Colorado voters' majority decision to legalize marijuana is much the opposite of the way other voter referendums have fared when confronted by the Federal government. For example, in the general election of November of 2006, the voters of Colorado approved Colorado Amendment 43, which added a new section to Article II of the Colorado Constitution that defined marriage in Colorado as only a union between one man and one woman. It passed with 56% of the vote.⁶ The percentage of voters in favor of Amendment 43 was higher than for either Amendment 20 or 64. Yet, Colorado today recognizes other types of marriages (in deference to the Supreme Court's interpretation of federal law), but does not bend to federal law as regards the legal status of marijuana. Both Colorado Senators sided with the State.

As we have already noted, some aspects of federal law impinge on the "legalization" of marijuana in Durango. Banks, credit card companies and other financial institutions, all of which are regulated at the federal level, are leery of processing funds from marijuana transactions. They have been "dazed and confused about what to do," because although the government wants to tax the revenue and keep it away from organized crime, "federal regulators have remained silent on the issue, raising the specter that banks could run

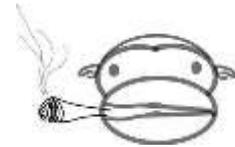
⁴ <http://www.cobar.org/opinions/opinionlist.cfm?casedate=6/15/2015&courtid=2>

⁵ For more on this, read "Conflicts of Law: A Colorado example," by Lieran A. Lasater, Esq., *National Paralegal Reporter*, Fall 2015, pages 38-40.

⁶ https://en.wikipedia.org/wiki/Colorado_Amendment_43

afoul of federal drug laws if they accept the cash.”⁷ This leaves some marijuana businesses holding mountains of cash—making them a tempting source of robbery (despite their high security), in addition to the government’s concerns about how to track those taxable transactions.

Another complexity that derives from the illegal federal status of marijuana is the wholly unregulated use of pesticides and fungicides in growing it. “The result is a regulatory void in which, theoretically, anything goes.” Consequently, “given what is known about the chemicals commonly used on marijuana plants, that means a potential public-health hazard for the people who smoke or consume legal marijuana, as well as those who work at the grow operations.”⁸



State and local challenges posed by the legalization of marijuana:

Government entities at the state and local level also face challenges in beveling the effects of their voters’ decisions. One of the repercussions of Amendment 64 (along with its contravention of federal law) is its as-yet undetermined effects on safe driving. According to the new DUI law in Colorado, a driver cannot have more than 5 nanograms of active THC in his or her system per milliliter of blood.

Another of the current and ongoing challenges of the State of Colorado is to keep teenagers (actually, anyone younger than 21) from using marijuana recreationally. After talking with more than 800 minors, the Colorado Department of Public Health and Environment unveiled a marketing campaign on August 19, 2015 to alert youths that “their brains aren’t fully developed until they’re 25” and that “pot use can make it harder for them to pass a test, land a job, or pass the exam for a driver’s license.”⁹

The *Durango Herald* quoted [former] City Attorney David Smith as telling City Council that “he anticipate[d] a ‘complete train wreck’ about the confusion in implementing Amendment 64 because marijuana still is illegal under federal law.”¹⁰

⁷ “Does anybody want \$3 billion in cash from pot sales? Big banks Say no, thanks,” *Bloomberg Business* news article by Keri Geiger, Jesse Hamilton, and Elizabeth Dexheimer, May 12, 2015, viewed online on 9/1/2015 at <http://www.bloomberg.com/news/articles/2015-05-12/banks-just-say-no-to-weed-as-treasury-pushes-the-business>

⁸ “What pesticides are being used to grow your pot? Cannabis farmers don’t face same regulations as other agriculturalists,” *Durango Herald* news article by Erica Berry, Katie Kunz, Jonathan Romeo, et al., October 17, 2015, viewed online on 10/20/2015 at [http://www.durangoherald.com/article/20151018/NEWS01/151019914/-1/News01/What-pesticides-are-being-used-to-grow-your-pot? -](http://www.durangoherald.com/article/20151018/NEWS01/151019914/-1/News01/What-pesticides-are-being-used-to-grow-your-pot?)

⁹ “State rebrands anti-pot campaign for kids,” *Durango Herald* news article by Kristen Wyatt, August 20, 2015, viewed online on 9/1/2015 at <http://www.durangoherald.com/article/20150820/NEWS02/150829974/State-rebrands-anti-pot-campaign-for-kids->

¹⁰ “Medical pot moratorium extended,” *Durango Herald* news article by Jim Haug, 12/18/2012, viewed online on 9/1/2015 at <http://www.durangoherald.com/article/20121218/NEWS01/121219542/0/SEARCH/Medical-pot-moratorium-extended>

The City Clerk's Office has found that managing its 14-or-so marijuana licenses requires about as much staff time as the Office spends managing all 111-or-so of the City's liquor licenses combined.

Marijuana legislation and licensing in Durango:

On March 18, 2009, US Attorney General Eric Holder told reporters that medical marijuana users and their duly authorized cannabis suppliers would not be targets of Federal prosecution.¹¹ This statement was corroborated more officially on October 19, 2009 when the office of the US Attorney General declared in writing that, despite the Department of Justice's commitment to enforcing the Controlled Substances Act in all States, and despite Congress having determined that "Marijuana is a dangerous drug, and the illegal distribution and sale of marijuana is a serious crime and... marijuana distribution in the United States remains the single largest source of revenue for the Mexican Cartels," nonetheless pursuit of the DOJ's "priorities should not focus federal resources in your States on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."¹²

In 2009 the City issued its first four business licenses for Medical Marijuana Dispensaries inside Durango. At least one early application slipped through without the City knowing that it was for the sale of marijuana. At that time, the process was simple and inexpensive—basically the same as for applying for a regular business license, except that applicants legally had (and still have) to go through a State-mandated process to apply for permission to purchase marijuana for medical use.¹³ Between the Attorney General's announcement in March and when the City passed a 60-day moratorium on the issuance of licenses for medical marijuana sales effective September 1, three dispensaries actually set up shop inside Durango in 2009.

The first application for a medical marijuana license by the City of Durango was submitted by Eric Gay (dba Holistic Hemp), as a medical marijuana consultant/caregiver, on May 7, 2009. His business was located at 711 Florida Road—which was outside city limits—but the proprietor stated that he would be coming into Durango to conduct business. On his application he described the nature of the business: Provider of Medical

¹¹ "Medical marijuana dispensaries will no longer be prosecuted, U.S. attorney general says," *Los Angeles Times* article by Josh Meyer and Scott Glover, 3/19/2009, viewed online on 9/1/2015 at <http://articles.latimes.com/2009/mar/19/local/me-medpot19>

¹² Memorandum for selected United States Attorneys, from David W. Ogden, Deputy Attorney General, October 19, 2009, viewed online on 8/24/2015 at <http://www.justice.gov/opa/blog/memorandum-selected-united-state-attorneys-investigations-and-prosecutions-states>

¹³ "Mellow medicine: Dispensary of marijuana for treatment opens in town," *Durango Herald* news article by Dale Rodebaugh, viewed online on 9/1/15 at <http://www.durangoherald.com/apps/pbcs.dll/article?AID=/20090819/NEWS01/308199970/0/SEARCH/Mellow-medicine>

Marijuana goods & services. The business license was effective from June 19, 2009 through the end of the year. After there was no response to the City Clerk's Office's contacts via mail and phone regarding the renewal of the license, a City Code Enforcement officer checked on business in early 2010 and found the building vacant. The City Clerk's Office terminated that license on April 19, 2010.

The second business thus licensed was Durango Alternative LLC (dba Natures Medicine of Durango), at 129 East 32nd Street. On August 4, 2009, the applicant described the nature of the business on the business license application as: Alternative medicine & Herbal medicines, etc. He did not mention medical marijuana on the application. When paying for the license, Nate Fete, the business manager, mentioned to the City cashier that the business would be a medical marijuana dispensary. The cashier notified the City Clerk's Office. Natures Medicine eventually became Rocky Mountain High, which had to move from the 32nd Street address after receiving a letter from the federal Drug Enforcement Agency that they were too close to a school.

On August 21, 2009, the Durango Healing Center LLC applied for a medical marijuana dispensary license at 473 East College Drive. Four days later, Nature's Own Wellness Center LLC applied for a medical marijuana dispensary license at 927 Highway 3.

Realizing that further planning and study were necessary for managing the licensing of marijuana, City Council adopted an emergency ordinance on September 1, 2009 to place a 60-day moratorium on the issuance of business licenses for medical marijuana dispensaries with the city of Durango. Council replaced this with its first ordinance, adopted on October 20, 2009, regulating medical marijuana dispensaries. Since then, the City has required background checks for owners and has required them to follow mandated operating rules and security requirements.

On November 13, 2009 Chris Rezek applied for a City of Durango business license for Medical Horticultural Services LLC as a grower of medical marijuana at the Durango Tech Center, just off of US Highway 160 West, within city limits.¹⁴ By the terms of the licensing, any marijuana grown there was restricted to the use of his caregivers. Mr. Rezek had lost his wife Sue to a painful battle with cancer in 1998, which may have led to his interest in the use of marijuana for medical purposes.

In early 2010 Tom Wegs, with Indoor Horticultural Services (dba Culebra, at 1539 Florida Road), also applied for a grow center license, but was denied by the City's Planning Department in May of 2010. Instead, he opened a dispensary at 171 East 7th Street in June of 2010.

¹⁴ "Man proposes new marijuana business in city," *Durango Herald* news article by Shane Benjamin, 11/15/2009, viewed online on 8/24/15 at <http://www.durangoherald.com/article/20091115/NEWS01/311159972/0/SEARCH/Man-proposes-new-marijuana-business-in-city>

On December 29, 2009, Durango Wellness LLC applied for a medical marijuana dispensary license at 1099 Main Avenue. The dispensary opened, but was forced to close after receiving notice from the federal Drug Enforcement Agency that it was too close to a drug counseling center. And thus the licensing process continued to unfold, leapfrogging ahead and sometimes back. Occasionally, City Council would adopt another emergency ordinance (two of them in 2010, another in 2011, two more in 2012, and another two in 2013) to halt the issuance of business licenses for any additional medical marijuana dispensaries, while the City finessed its policies and procedures as a result of the ongoing complexities of licensing the still-developing marijuana industry. Nonetheless, by 2010, the *Herald* was reporting that marijuana dispensaries outnumbered brewpubs and bike shops in Durango.¹⁵ By 2011, the City of Durango had licensed 11 Marijuana Centers (previously known as dispensaries), and one grow facility. The grow license was issued before Council prohibited grow facilities inside City limits.

The City of Durango opened the door to review and approve Retail Marijuana Stores as of July of 2014. From then until January 1, 2015, only applicants who already held a Medical Marijuana license could apply for a Retail license. The City Clerk's Office issued its first two recreational marijuana business licenses on September 23, 2014—and also licensed Aurum Labs, which the *Herald* described as “the town's first testing facility for recreational marijuana. This company will be testing raw marijuana and infused marijuana products for their potency and microbial content. The company will be making sure marijuana projects are safe and properly labeled before they are sold.”¹⁶ By December of 2014, Durango had 7 active Medical Marijuana Centers, five Retail Marijuana Stores, one Marijuana Testing facility, and the original grow operation. As of August 21, 2015, the City had two pending applications for additional retail licenses and had calls coming in weekly inquiring about the possibility of a new application.

The City's oversight of marijuana sales—which is in addition to the State Department of Revenue's checks—includes a system of background checks of potential employees of marijuana businesses. Individuals with criminal histories must go before the Local Licensing Authority to plead their case before they may be employed. The three-member board (currently—and since its inception—comprised of City Manager Ron Le Blanc, longtime former City Manager Bob Ledger, and a third member appointed by City Council) has been known to reject prospective employees “because of problems with either

¹⁵ “Competition Heats Up,” *Durango Herald* news article by Garrett Andrews, 4/12/2010, viewed online on 8/24/2015 at <http://www.durangoherald.com/apps/pbcs.dll/article?AID=/20100412/NEWS01/304129969/0/SEARCH/Competition-heats-up>

¹⁶ “Licenses now being issued for retail pot,” *Durango Herald* news article by Mary Shinn, 9/24/2014, viewed online on 8/24/2015 at <http://m.durangoherald.com/apps/pbcs.dll/article?AID=/20140924/NEWS01/140929738/0/news01/Licenses-now-being-issued-for-retail-pot&template=printpicart>

their criminal records or their truthfulness in filling out their disclosure forms.”¹⁷ One of those rejected was Caden Rezek, a son of Chris and Sue Rezek, who had assaulted a police officer two years before. (His half-brother Joseph Huntsinger became the 100% owner of Medical Horticultural Services after their father died in an accident on June 3, 2013; the business had close to 200 Medical Marijuana Patients at the time and reported that it was paying, on average, \$7,000 in state and local sales taxes every month.¹⁸) The *Herald* quoted Mr. Ledger as saying that “What we find disconcerting is that many of the applicants have had significant issues with the law; for many of them it’s alcohol and substance-abuse issues.”¹⁹ Debbie Marquart, an opponent of the legalization of marijuana, told the newspaper she regarded the vetting process as too lenient: “she does not like that the licensing authority will often approve job applicants if their records have been clean for the last five years even though they might have had drug convictions in the past.”²⁰

These are the City’s 32 **marijuana-related ordinances** (as of 2/19/2021):

Ordinance #	Ordinance Title	Subject	Start Date
O-2017-0006	An Ordinance amending Chapter 27 (the Land Use and Development Code) of the code of ordinances of the City of Durango concerning marijuana by the amendment of Section 2-2-3-10 to limit the location of marijuana business establishments within the city	zoning of marijuana store locations in Durango, regulation of sales of medical marijuana in downtown Durango	2017-3-31
O-2017-0005	An Ordinance amending the code of ordinances of the City of Durango by the amendment of portions of Division 2 of Article VIII of Chapter 13 of the Code of Ordinances regarding limits on medical marijuana centers locations	zoning of marijuana store locations in Durango, regulation of sales of medical marijuana in downtown Durango	2017-3-31
O-2017-0004	An Ordinance amending the code of ordinances of the City of Durango by the amendment of portions of Division 1 of Article VIII of Chapter 13 of the Code of Ordinances regarding limits on retail marijuana store locations	zoning of marijuana store locations in Durango, regulation of retail sales of marijuana in downtown Durango	2017-3-31
O-2017-0002	An emergency ordinance of the City of Durango re-enacting Ordinance No. 2016-34 to extend the temporary moratorium imposed in that Ordinance on the acceptance, processing or approving of applications for business licenses, land use permits or other licenses issued by the City for retail marijuana establishments or medical marijuana centers within the specified portions of the city of Durango received after the effective date of this Ordinance	moratorium on new licensing or permitting for marijuana stores in Durango, regulation of sales of retail and medical marijuana in Durango--with map dated December 2016	2017-1-17

¹⁷ “Fit for work? In regulated world of medical marijuana, employees, too, face tight scrutiny,” *Durango Herald* news article by Jim Haug, 1/16/2012, viewed online on 8/24/2015 at <http://www.durangoherald.com/apps/pbcs.dll/article?AID=/20120116/NEWS01/701169953/0/SEARCH/Fit-for-work&>

¹⁸ City Clerk’s Office licensing records, 6/19/2013, and *Durango Herald* obituary, 6/8/2013, viewed online on 8/24/2015 at <http://www.durangoherald.com/article/20130608/NEWS07/130609518/0/SEARCH/Chris-Rezek>

¹⁹ Op cit., *Durango Herald* news article by Jim Haug, 1/16/2012.

²⁰ Ibid.

Ordinance #	Ordinance Title	Subject	Start Date
O-2016-0034	An Emergency Ordinance of the City of Durango Establishing a Temporary Moratorium on the Acceptance, Processing or Approving of Applications for Business Licenses, Land Use Permits or Other Licenses Issued by the City for Retail Marijuana Establishments or Medical Marijuana Centers within the Specified Portions of the City of Durango Received after the Effective Date of this Ordinance	receipt of retail and medical marijuana business applications to the City (with color map attached to the Ordinance)	2016-12-6
O-2016-0026	An Ordinance Amending Chapter 27 (the Land Use and Development Code) of the Code of Ordinances of the City of Durango Concerning Marijuana by the Amendment of Table 2-1-3-5 and Section 2-2-3-10 [(C) (D) and (E)] (B) to Allow for Medical Marijuana Testing Facilities within City Limits and to Change Hours of Operation for Marijuana Businesses	changing the LUDC to allow for Medical Marijuana Testing Facilities within the city limits to change the allowable hours of operation for marijuana businesses in Durango	2016-8-9
O-2016-0025	An Ordinance Amending the Code of Ordinances of the City of Durango by the Amendment of Section 5-131 (1) and 5-138 (B) as Contained in Article VIII of Chapter 5 of the Code to Grant Authority to the Durango Local Licensing Authority to Review, Process and Take Action on Applications and Other Licensing Actions for Medical Marijuana Testing Facility Licenses	allowing the Durango Local Licensing Authority the authority to issue Medical Marijuana Testing Facility licenses within the city	2016-8-9
O-2016-0024	An Ordinance Amending the Code of Ordinances of the City of Durango by the Amendment of Portions of Division 1 of Article VIII of Chapter 13 of the Code of Ordinances of the City of Durango, Pertaining to the Co-Location of Retail and Medical Marijuana Testing Facilities and Changes to the Hours of Operation for Retail Marijuana Stores	authorizing the co-location of Retail Marijuana Testing and Medical Marijuana Testing Facilities within the city and changing Retail Marijuana store hours	2016-8-9
O-2016-0023	An Ordinance Amending the Code of Ordinances of the City of Durango by the Amendment of Portions of Division 2 of Article VIII of Chapter 13 by Allowing Medical Marijuana Testing Facilities Within the City, Changing Medical Marijuana Center Hours of Operation	changing Medical Marijuana Center hours and authorizing the licensing of Medical Marijuana Testing Facilities within the city of Durango	2016-8-9
O-2014-0038	An ordinance amending Chapter 27 of the Code of Ordinances of the City of Durango (Land Use and Development Code) by the amendment, addition and deletion of portions of sections, tables and definitions in the said Land Use and Development Code as further set forth herein.	LUDC amendments, retail marijuana establishments, restaurant zoning, allowable uses, allowable locations of stores, residential zoning, parking requirements for businesses	2014-9-2
O-2014-0037	An ordinance amending the code of ordinances of the City of Durango by the amendment of Section 5-131(2) as contained in Article VII of Chapter 5 of the code to clarify the authority of the Durango Local Licensing Authority regarding the location of retail marijuana stores.	LUDC amendment, retail marijuana establishments, licensing and regulation, zoning, allowable locations of stores, sales in mixed use neighborhoods	2014-8-19
O-2014-0036	An ordinance amending the code of ordinances of the City of Durango by the amendment of portions of Division 2 of Article VIII of Chapter 13 of the code of ordinances of the City of Durango, specifically amending section 13-207(D) of the code pertaining to licensing of medical marijuana businesses.	LUDC amendment, medical marijuana establishments, licensing and regulation, zoning, sales in mixed use neighborhoods	2014-8-19

Ordinance #	Ordinance Title	Subject	Start Date
O-2014-0033	An ordinance amending Chapter 27 (the Land Use and Development Code) of the code of ordinances of the City of Durango concerning retail marijuana establishments by the amendment of Table 2-1-3-5 to delete the MU-N zone as an allowed zoning district for retail marijuana stores.	LUDC amendment, retail marijuana establishments, licensing and regulation, zoning, sales in mixed use neighborhoods, citizens' referendum process	2014-8-5
O-2014-0032	An ordinance repealing and reenacting Division 1 of Article VIII of Chapter 13 of the code of ordinances of the City of Durango concerning the licensing and regulation of retail marijuana establishments within the city with the deletion of the provision in Section 13-168(B) allowing retail marijuana stores in the MU-N zone.	retail marijuana establishments, licensing and regulation, zoning	2014-8-5
O-2014-0028	An ordinance amending the code of ordinances of the City of Durango by the amendment of Article VIII of Chapter 5 of the code to grant authority to the Durango Local Licensing Authority to review, process and take action on applications and other licensing actions for retail marijuana establishments.	Durango Local Licensing Authority, retail marijuana	2014-7-1
O-2014-0027	An ordinance repealing Division 16 of Article III of Chapter 13 of the code of ordinances of the City of Durango, and enacting a new Division 2 of Article VIII of said Chapter 13 pertaining to medical marijuana.	medical marijuana, zoning, Land Use and Development Code	2014-7-1
O-2014-0026	An ordinance amending the code of ordinances of the City of Durango by the creation of Article VIII to Chapter 13 of the code concerning the licensing and regulation of retail marijuana establishments within the city.	retail marijuana	2014-7-1
O-2013-0022	An ordinance of the City of Durango continuing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities within the city of Durango through June 30, 2014.	moratorium on issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities, legalization of marijuana in the State regardless of medical condition, federal laws not being enforced	2013-12-3
O-2013-0015	An ordinance of the City of Durango establishing a moratorium on the issuance of business licenses for recreational medical establishments and marijuana social clubs within the city of Durango.	moratorium on issuance of business licenses for recreational medical marijuana vendors and marijuana social clubs	2013-9-17
O-2013-0007	An ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities within the city of Durango.	moratorium on issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities, legalization of marijuana in the State regardless of medical condition, federal laws not being enforced	2013-6-4
O-2013-0002	An ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities within the city of	moratorium on issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufac-	2013-2-5

Ordinance #	Ordinance Title	Subject	Start Date
	Durango.	turing facilities, legalization of marijuana in the State regardless of medical condition, federal laws not being enforced	
O-2012-0020	An emergency ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities within the city of Durango.	moratorium on issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities, legalization of marijuana in the State, federal laws not being enforced	2012-12-18
O-2012-0011	An emergency ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities within the city of Durango.	moratorium on issuance of business licenses re: marijuana growing, manufacture and sales inside the city of Durango	2012-6-18
O-2012-0005	An ordinance repealing and reenacting Section 17-26 of the code of ordinances of the City of Durango pertaining to the possession of marijuana.	City of Durango's fine for illegal possession of marijuana	2012-2-7
O-2011-0017	An emergency ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries and medical marijuana-infused products manufacturing facilities within the city of Durango.	moratorium on issuance of business licenses re: marijuana growing, manufacture and sales inside the city of Durango	2011-6-20
O-2010-0017	An ordinance amending the use-zone matrix in Section 4-2-7 of Chapter 27 of the code of ordinances of the City of Durango to add medical marijuana centers and medical marijuana-infused products manufacturing facilities; amending the definitions in Article 15 of Chapter 27 of said code.	zoning for medical marijuana centers, manufacturing facilities, and cultivation facilities (not allowed inside the city of Durango)	2010-9-21
O-2010-0016	An ordinance repealing and reenacting Article VIII (§§5-131 through 5-140) of Chapter 5 of the code of ordinances of the City of Durango for purposes of establishing a Local Licensing Authority to license, administer and enforce regulations pertaining to malt, vinous and spirituous liquors and medical marijuana and medical marijuana-infused products.	Liquor Licensing Authority replaced by new Local Licensing Authority to accommodate issuance of licenses for the sale and distribution of medical marijuana	2010-9-21
O-2010-0013	An ordinance repealing and reenacting Division 16 of Chapter 13 of the code of ordinances of the City of Durango, pertaining to medical marijuana.	medical marijuana, state law, medical marijuana dispensaries, definitions, issuance of business licenses	2010-8-3
O-2010-0011	An emergency ordinance of the City of Durango extending the temporary moratorium on the issuance of business licenses for medical marijuana dispensaries, inclusive of marijuana growing operations, within the city of Durango.	medical marijuana dispensaries and grow operations, growing marijuana in Durango, moratorium	2010-6-1
O-2010-0008	An emergency ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries, inclusive of marijuana growing operations, within the city of Durango.	moratorium on issuance of business licenses re: marijuana growing inside the city of Durango	2010-4-27
O-2009-0018	An ordinance amending Chapter 13 of the code of ordinances of the City of Durango through	medical marijuana dispensaries	2009-10-20

Ordinance #	Ordinance Title	Subject	Start Date
	the adoption of a new Section 13-110, pertaining to medical marijuana dispensaries.		
O-2009-0017	An emergency ordinance of the City of Durango establishing a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries within the city of Durango.	medical marijuana dispensaries	2009-9-1

In addition, City Council adopted related **resolutions**:

Resolution #	Resolution Title	Subject	Date
R-2019-0058	A resolution authorizing accepting funding for the Gray and Black Market Marijuana Enforcement Grant Program and authorizing an appropriation to the General Fund for the Police Department in excess of the amounts budgeted in the 2019 budget	authorizing accepting funding for the Gray and Black Market Marijuana Enforcement Grant Program and authorizing an appropriation to the General Fund for the Police Dept.	
R-2016-0047	A resolution adopting fees for licenses issued pursuant to Chapter 13 within the City of Durango	City of Durango business license fees for licensing liquor and marijuana businesses, lodger's license, sales tax by number of employees inside the city of Durango, schedule of fees	2016-10-4
R-2016-0040	A resolution of the City of Durango Establishing Medical Marijuana Testing Facility License Fees Pursuant to C.R.S. 12-43-3-503 and Superseding Resolution No. R-2014-24	City of Durango fees for licensing medical marijuana testing facility businesses, schedule of fees	2016-8-9
R-2014-0024	A resolution of the City of Durango establishing retail marijuana establishment license fees pursuant to C.R.S., §12-43.4-501 and repealing Resolution No. R-2012-21 and adopting a new fee schedule for medical marijuana business license fees pursuant to C.R.S., §12-43.3-503.	retail marijuana, licensing fees, schedule of fees, medical marijuana	2014-6-3
R-2012-0021	A resolution authorizing an increase in medical marijuana license fees pursuant to C.R.S., §12-43.3-503.	marijuana center licensing fees schedule, medical marijuana-infused products, manufacturing facilities	2012-7-3
R-2011-0044	A resolution of the City of Durango establishing fees for the issuance, transfer or renewal of medical marijuana licenses pursuant to C.R.S., §12-43.3-503.	marijuana center licensing fees schedule	2011-12-20
R-2010-0019	A resolution of the City of Durango establishing fees for the issuance, transfer or renewal of medical marijuana licenses pursuant to C.R.S., §12-43.3-503.	medical marijuana dispensaries and grow operations, growing and selling marijuana in Durango, fees schedule	2010-8-3

Eyes on potential tax revenues from the sale of marijuana:

Amendments 20 and 64 gave Colorado government entities a new potential source of tax revenue. During 2014, the first year of implementation of Colorado Amendment 64, Colorado's legal marijuana market (both medical and recreational) reached total sales of \$700 million.^{[30] 21} A market study published by the State on July 9, 2014, after the first three months of sales data, estimated the market demand statewide at 130 metric tons per year, and an average market rate of \$220 per ounce—which was a third higher than the State Department of Revenue had predicted. Further, the study found that—despite the illegality of consuming “marijuana in areas where most visitors may be, such as rental cars, hotels, and public spaces”—about 44 percent of the sales of recreational marijuana (which is taxed far more heavily than medical marijuana) in metropolitan areas and about 90 percent of sales in mountain towns such as Durango is used by out-of-state visitors.²² According to the *Wall Street Journal*, tax revenue generated by sales of recreational marijuana in Colorado in 2014 amounted to just under \$5 million. The *Journal* reported:

...more than 200 highly regulated retail businesses sell their wares around the state. State lawmakers and economists say pot is indeed contributing to Colorado's economy, spurring tourism and the conversion of blighted warehouses into marijuana grow-houses.

According to state figures, nearly 16,000 people are now licensed to work in the marijuana industry in Colorado. And a study conducted last year for the state by the Marijuana Policy Group, a Colorado research firm, found that tourists accounted for nearly half of recreational sales in the Denver area and 90% in popular mountain communities.²³

City Manager Ron LeBlanc noted at the July 21, 2015 City Council regular meeting that most Colorado cities, including Durango, depend on sales tax revenues. Two-thirds of the City's General Fund comes from taxes (sales, property and other). At that time, approximately 3% of the total sales tax the City was collecting derived from the sale of retail and medical marijuana.

²¹ Sources of this data regarding the legal status of the use of marijuana in Colorado:
<https://www.coloradopotguide.com/marijuana-laws-in-colorado/>
https://en.wikipedia.org/wiki/Drug_policy_of_Colorado

²² *Market Size and Demand for Marijuana in Colorado*, provided by The Marijuana Policy Group, for the Colorado Department of Revenue, July 9, 2014, pages 2-3, viewed online on 10/9/2015 at <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study%2C%20July%209%2C%202014%5B1%5D.pdf>

²³ “In Colorado, Legal Pot Fails to Meet Predictions of Supporters, Critics: Forecasts of Tax Windfall, Dire Consequences Don't Prove Entirely True,” *Wall Street Journal* article by Dan Frosch, updated Jan. 9, 2015, viewed online on 10/9/2015 at <http://www.wsj.com/articles/in-colorado-pot-legalization-fails-to-match-predictions-of-backers-critics-1420830972>

In the summer of 2015 the City asked a question on Virtual City Hall: “To address the ongoing City facility needs, would you support an increase in City property tax, an increase in City sales tax, a special tax on the sale of recreational marijuana and/or other solutions, such as grants, improved efficiencies, new bonds or a combination of the options?” The largest category of responses was 39.1% in favor of a special tax on recreational marijuana. Mr. LeBlanc noted that 184 Colorado cities prohibit marijuana, 29 have moratoriums in place, and 54 allow and regulate marijuana, with 36 of those having an additional sales, excises or occupational tax (averaging 5%) on those sales. Mr. LeBlanc noted that the communities that had approved an additional tax for recreational marijuana include Aurora, Boulder, Breckenridge, Dillon, Denver, Frisco, Gunnison, Manitou Springs, Silverton and others.

At that July 2015 meeting City Finance Director Julie Brown informed Council that the City also receives 15% of the 10% collected by the State of Colorado on the sale of marijuana. She reported that the City had received close to \$107,000 from that source in the first 7 months of 2015.

After hearing public comments (mainly from individuals associated with the marijuana industry in Durango) in opposition to the proposed ballot issue, City Council unanimously voted on July 21 to *not* place a 5% additional tax increase on the sale of retail marijuana on the November 2015 ballot.

Further complexities about the sale of marijuana:

In addition to the federal illegality of it all and the complexities of tracking sales of cash-based transactions and regulating grow operations, the licensing of the sale of marijuana is further complicated by the prospect of allowing the sale of ingestible products that contain cannabis: much of the marijuana that is sold in Colorado is being packaged as food. Because of the addictive nature of the drug and the potentially deadly effects of consuming it in large quantities²⁴, and because of the need to keep it out of the mouths of persons who are under age 21, the focus at the state level has been on how to label such products. As with other aspects of the sale and licensing of marijuana, Colorado's Marijuana Enforcement Division has been faced with pressures from those who think the State should guard against wrongful use of the product and pressures from those who are selling it.

²⁴ The September 2014 issue of *Citizen* magazine (“Growing Like a Weed,” by Rod Thomson, pages 19-21) described some of the deaths and illnesses of individuals in Colorado who consumed marijuana, noted that the potency of marijuana used today is more than 400 percent higher than what was smoked at Woodstock 45 years ago, reported that nearly 4.2 million people had a marijuana addiction problem in 2011 according to the National Institute of Drug Abuse, and cited the April 16, 2014 issue of the *Journal of Neuroscience* that “found that large amounts of marijuana can create high levels of fear, anxiety and panic.”

Product manufacturing, bottling and labeling are complicated by the legal requirement to limit the level of THC (the psychoactive ingredient in marijuana), which entails using a formula to determine the equivalency between potencies for edible products and concentrates compared to the levels of the drug in a marijuana flower. “Colorado residents are allowed to purchase only 1 ounce of marijuana at a time, and visitors may purchase a quarter-ounce. That means residents would be allowed to purchase up to 800 milligrams of THC at one time in edibles and tourists would be allowed to purchase up to 200 milligrams of THC per purchase.”²⁵

How such rules will be applied and enforced, remains to be seen. In summary, some would argue that the voters' approval of Amendment 64 opened a Pandora's box.²⁶



And thus, the story about the licensing of marijuana by the City of Durango is still being written—by the voters, by the members of the community, and by the people who derive benefit from it.

²⁵ “Rule-making for marijuana a complicated task: Regulators draw ire from both sides of debate,” *Durango Herald* news article by Peter Marcus, 8/31/2015, viewed online on 9/31/2015 at <http://www.durangoherald.com/article/20150831/NEWS01/150839953/-1/News01/Rule-making-for-marijuana-a-complicated-task-->

²⁶ Pandora's box: a source of many troubles: something that will lead to many problems (source: <http://www.merriam-webster.com/>)