



VISION STATEMENT:
"The Magic City: A diverse,
welcoming community
where people prosper and
business succeeds."

WORK SESSION AGENDA
September 7, 2021

COUNCIL CHAMBERS

5:30 P.M.

CALL TO ORDER: Mayor Cole

1. **COVID-19 Update by Unified Incident Command (UIC).**
(Presented by: John Felton, Yellowstone County Health Officer)
- Public Comment
2. **Jail Diversion.**
(Rich St. John, Police Chief)
- Public Comment
3. **Community Impact Study Review - Downtown Billings Alliance.**
(Katy Easton, Executive Director, and Downtown Police Officers)
- Public Comment
4. **Marijuana Business Regulation, Licensing, and Zoning.**
(Karen Tracy, Assistant City Attorney)
- Public Comment

COUNCIL DISCUSSION:

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required. *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

ADJOURN:

Note:

- This meeting is an "informal" meeting of the City Council. The content of the Agenda is subject to change at the meeting.
- In the event there is a Closed Executive Session at the end of a Work Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4)(a), MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

City Council Work Session

Date: 09/07/2021

Title: Downtown Billings Alliance - Community Impact Study

Presented by: Rich St. John, Police Chief

Department: Police

Presentation: Yes

RECOMMENDATION

To be discussed.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Katy Easton, Executive Director of Downtown Billings Alliance, in collaboration with the Downtown Police Officers, will present and review information contained in the Community Impact Study, attached.

ALTERNATIVES

This is an informational presentation only.

FISCAL EFFECTS

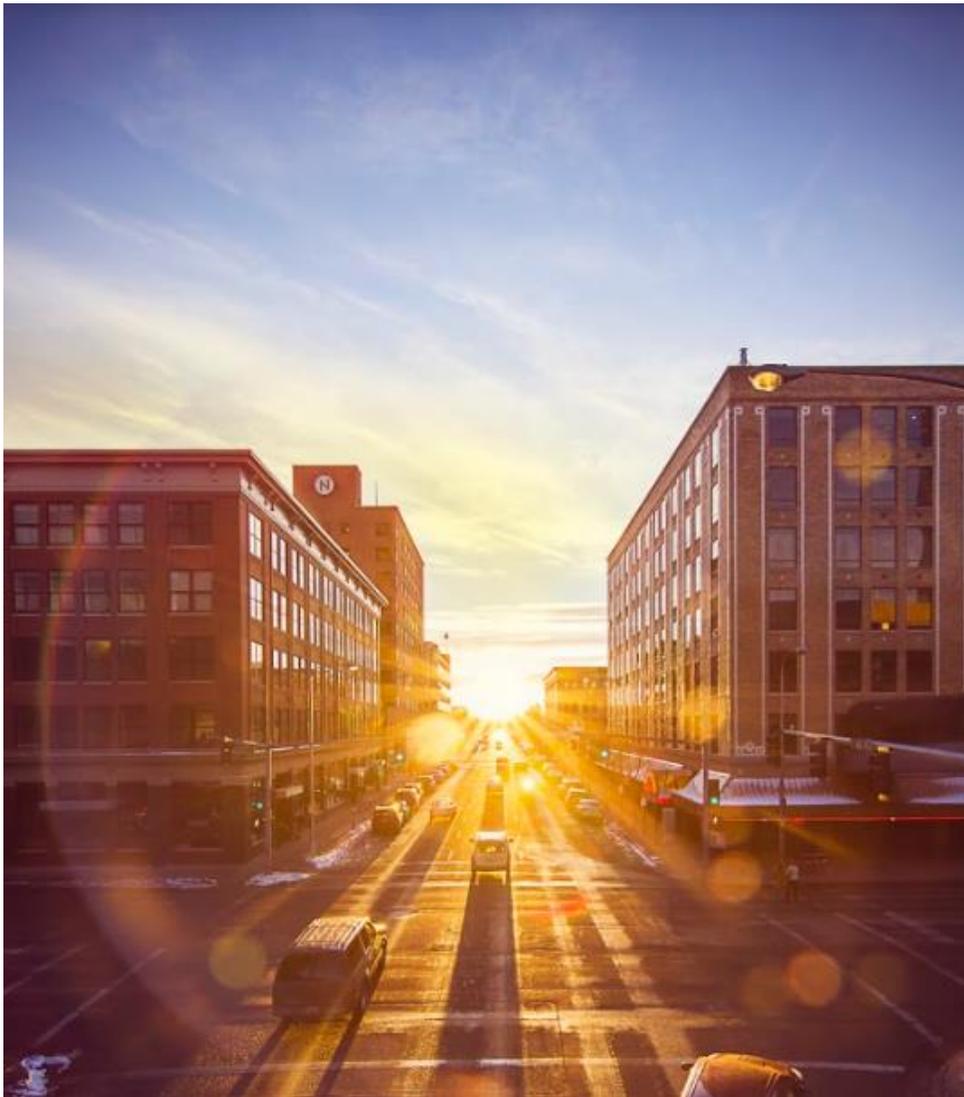
The fiscal impacts of the study will be discussed during the presentation.

Attachments

Community Impact Study

Community Impact Study: The Effect of the Top .08% of Chronic High Utilizers

Billings Police Department Officers:
Brad Mansur and Phil Tanis
7/1/2021



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Introduction

The City of Billings is a community experiencing transiency, panhandling, and homelessness. Activity is primarily centralized in the Business Improvement District as evidenced by a high number of citations for open container, trespass, and disorderly conduct. Along with high levels of enforcement, public complaints on these issues have increased year after year. Other street disorder issues include, but are not limited to, littering, sleeping in public places, and public urination.

There is a need for analysis (Community Impact Study) on the problem to formulate a non-traditional Law Enforcement approach. Traditional methods of policing involve arresting, issuing citations/warnings, and dispersing problematic populations. In the identified population there are factors to include undiagnosed or untreated mental health and substance abuse disorders which make traditional Policing ineffective. The City of Billings and Yellowstone County are also experiencing an extreme shortage of available jail space. Because the type of crimes committed by the target population are not typically violent and do not rise to a felony level, the limited space at the Yellowstone County Detention Facility has not available for several years (2017 to 2020).

The purpose of this study is to show the monetary impact our target population has on emergency services and local medical facilities. Our target population was termed Chronic High Utilizers.

The goal of the Community Impact Study is to show the need for a program for this small subset of the population that has frequent interactions with emergency services and medical facilities at a rate significantly higher than the general population.

Methods

To find our Community Impact Study population, a report was ran using the Billings Police Department's case reporting system. All citations, warnings, warrants, and arrests for trespassing, open container, and public urination in 2020 were collected city wide. The lists were combined and an individual with 15 or more Law Enforcement contacts in 2020 were put onto the list as Chronic High Utilizers. 93 people fit into this list. In 2014 when this same study was done, they found 74 individuals listed as Chronic High Utilizers and their qualification to the list was 3 or more contacts with Law Enforcement in a year. Chronic High Utilizers are being defined within this study as a small group of individuals who impose a disproportionately high burden on the healthcare and Criminal Justice systems due to their elevated and repeated resource use.

To clarify Law Enforcement contact, a citation is a written ticket or summons into court for a violation of the law. A citation is used to enforce open container violations and public urination. A warning is a written piece of paper to document an observed infraction of the law, but the individual is not being summoned into court. It is an attempt to correct illegal behavior without summoning an individual into court or attaching any fines. A warning is also written when a business or private property owner wants to give a written notice of 'no trespass' to an

individual for the property they have authority over. An arrest is when an individual is either issued a Notice to Appear into court or physically taken to the Yellowstone County Detention Facility and is remanded into jail. A warrant is issued by the courts for numerous reasons. In the framework of this study, warrants are most typically issued for failing to appear in court on a citation issued. This is a ‘failure to appear’ warrant. An active warrant is any warrant issued by the courts which is currently ‘active’. This means if the subject is located they can be arrested for the outstanding warrant. 28 individuals in the study had 10 or more active warrants as of the date of the study (1/1/2021) with the largest amount of warrants held by one person being 51 active.

One category listed was arrests. Individuals listed in this study ranged from 88 arrests in 2020 to 0 arrests. In a typical Law Enforcement arrest, an individual is taken to a jail and remanded or ‘booked in’ on a charge. This is counted as 1 arrest. A Chronic High Utilizer, having 51 active warrants for their arrest, means they are being arrested 51 individual times for the 1 action of going to jail. The reason these are separated per warrant is every warrant requires its own arrest report, which is individually reviewed by a supervisor, entered into the local records system, forwarded to a court clerk who prepares the warrant arrest for court, a prosecutor who preps the court hearing for the warrant, and a judge who sees the individual in their courtroom. This process occurs 51 times, taking hours to go through all arrests. If an individual appears in court for an arrest there are at a minimum, 6 steps involving 6 different employees. If the individual does not appear in court there are at a minimum, 10 steps involving 10 different employees to enter and handle the paperwork.

The term ‘employee resources’ was calculated at what it costs the City of Billing for an employee to perform their job for an hour. A Police Officer was calculated at \$75 an hour, Records and Court Clerks were calculated at \$18 an hour. See: step and estimated average staff cost per hour figure.

<u>Step and estimated average staff cost per hour</u>			
<u>2 Officer response to violation</u>	<u>\$150</u>	<u>Cop Issue</u>	<u>1</u>
<u>Clerk to enter violation</u>	<u>\$18</u>	<u>Clerk enter</u>	<u>1</u>
<u>Court staff worker</u>	<u>\$18</u>	<u>Court enter</u>	<u>1</u>
<u>Prosecution/Judge involvement</u>	<u>\$75</u>	<u>Judge issues</u>	<u>2</u>
<u>Court staff to enter warrant</u>	<u>\$18</u>	<u>Court enter</u>	<u>1</u>
<u>Clerk to enter warrant</u>	<u>\$18</u>	<u>Clerks enter</u>	<u>1</u>
<u>Officer to serve warrant</u>	<u>\$75</u>	<u>Dispatch</u>	<u>1</u>
<u>Clerk to validate/enter</u>	<u>\$18</u>	<u>Clerks enter</u>	<u>1</u>
<u>Court to validate/enter</u>	<u>\$18</u>	<u>Courts enter</u>	<u>1</u>
<u>Total cost/Hour</u>	<u>\$501</u>	<u>total steps</u>	<u>10</u>
<u>\$501 times .25 = 250.5</u>	<u>\$250.5</u>		
<u>First 6 steps times \$250.5 = \$1,500</u>			
<u>All 10 steps times \$250.5 = \$2,505</u>			
<u>1033 warrants times \$2,505 = \$2.5 million</u>			

An Officer is valued at \$75 an hour due to several factors. The Officer's hourly wage, the Officer's yearly benefits/health insurance, and the cost of equipment and the vehicle being driven are all calculated for a year. This number is then broken down to the hour, resulting in \$75 an hour being the cost of an Officer's time.

Within this study, the 93 Chronic High Utilizer's identified had from 15 to 393 Law Enforcement contacts, accounting for a total of 5601 total Law Enforcement contacts. If all citations, warnings, arrests, warrants, and active warrants are added up, they do not equal 5601. The missing pieces here are contacts which do not result in written enforcement activity. If an individual is contacted by Law Enforcement and either checked out on the radio through dispatch, or logged by an Officer in the mobile reporting software, the activity is added to their LE contact list. An example of this is when a property owner calls to have a subject removed from their private property but they do not want any other enforcement activity. Upon contact, the Officer will identify the subject, log their name into the reporting software and advise the subjects of their need to leave the private property.

For the purposes of Court Services and the Police Department Records staff, a Law Enforcement contact is any case or enforcement activity done where they have to 'put hands on' or work on. Examples of this type of work would be: entering warrants issued by a judge into the local system, updating a subject's file with new trespass warning information, or completing arrest reports entered for numerous active warrants served through an arrest.

With the above information, Billings Clinic, Saint Vincent Healthcare, American Medical Response (AMR), and the Billings Fire Department were given the data on our 93 Chronic High Utilizers. All organizations were asked what these 93 Chronic High Utilizers cost their organizations in a year. Each organization was not given specific instructions but instead given the freedom to collect data within the parameters of their own organizations. A common term used was "non-reimbursed services".

The Billings Fire Department ran their numbers under the scope of 'manpower' or employee resources, similar to the Police Department.

Results

The Community Impact Study identified a total of 93 Chronic High Utilizers in the target population, resulting in \$10,327,665 in public services each year. It costs an estimated \$111,050.16 to serve one chronically homeless individual for a year in emergency services and hospitalizations.

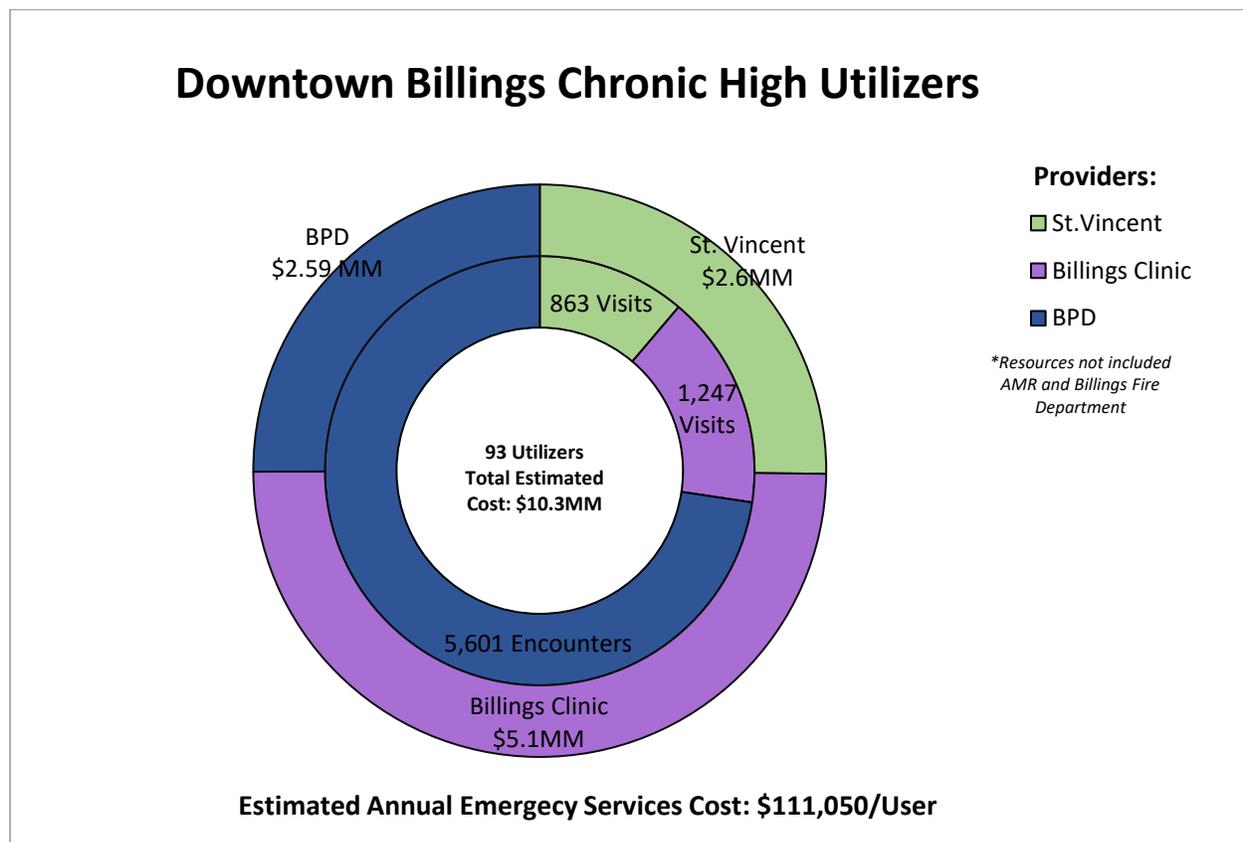
In 2020, the Billings Clinic tracked 70 of the 93 individuals for 1247 total visits, costing them \$3.84 million in care delivery. Billings Clinic was able to find the other 23 individuals but due to numerous name spelling differences, resulting in different tracking numbers, they did not provided information as it not able to be proven accurate. The average yearly cost of the 70 tracked individuals was \$63,000 in services. The average cost for an individual was added to the 23 unaccounted for individuals, adding up to \$1.3 million. All 93 individuals were located in

Billings Clinic records, but only 70 were accurately able to be listed. Billings Clinic’s estimated total cost for 2020 to these 93 individuals was \$5.14 million in un-reimbursable care delivery.

In 2020, Saint Vincent Healthcare tracked the 93 individuals for 863 visits, costing them \$2.6 million in un-reimbursable care delivery.

The 93 individuals had a total of 2,110 hospital visits between two medical facilities.

In 2020, the Billings Police Department expended \$2,587,665 in employee resources for 634 warnings issued, 547 citations issued, 1504 arrest reports submitted, 633 active warrants, and 5601 total Law Enforcement involvements as of 1/1/2021.



American Medical Response did not have numbers for this study as of 5/14/2021. In speaking with the Operations Director, of the 2,110 visits, they expect their numbers to reflect a large majority of those visits started with an ambulance ride from their organization.

The Billings Fire Department did not have an accurate way to track Chronic High Utilizer responses. Every American Medical Response dispatched requires a Fire Department dispatch for response. The Fire Department can provide cost analysis upon receiving how many calls they were dispatched to through American Medical Response numbers.

It should be noted, due to a lack of data from 2/5 of service providers, the total cost associated with Chronic High Utilizers is being presented as a low figure to its actual number.

Discussion

With all of the data collected, two areas in need of improvement were observed. We believe these areas of improvement are attainable. 2020 was a year of high enforcement on the high utilizer population. The highest level of enforcement performed was issuing citations, warnings, and moving people along. The first area of improvement observed was to expand our current jail infrastructure. With a lack of jail space, there was an inability to make arrests or have defendants appear in court for criminal activity.

The second area for improvement presented was a need for jail diversion in the form of sobering center or short-term detox facility. With nowhere appropriate to take chronic high utilizers, they end up in a hospital bed to sleep off their intoxication and then they are discharged. With no resources or access to resources during this critical time in an at-risk persons' journey, it is impossible for them to know or have the ability to act on the help that is already provided within the city.

When talking of a sobering center, there are different, successful models throughout the country. Two models recently looked at were in San Diego, CA and Houston, TX. Both Houston and San Diego stressed their sobering centers were crucial components in their social service system involving Law Enforcement. Houston stated without a sobering center, none of their crisis outreach work would be possible. In each model, the sobering center is used as a hospital diversion for chronic utilizers who would normally take up a much needed Emergency Department bed. They are also used as jail diversion programs. In this model, after an individual has slept for a four hour period, they are woken up and given the option to obtain services through local providers. In Houston, those services were on the second floor of the same building.

For the conversation of who is appropriate to go to a sobering center, we look at who is appropriate for the jail and who is appropriate for the hospital. There is a wide gap between those who need to be booked into a jail and those who need immediate medical attention. At this point in time, we do not have anything to fill the gap in-between. We find all individuals, appropriate or not, are being sent to the local hospitals. Along with this, expanding jail space and foregoing a sobering center would create the same problem we see currently at the hospitals. The jail and the hospitals cannot be used as pseudo-sobering centers.

A final thought and consideration is the human factor. All 93 Chronic High Utilizers are all citizens of the community of Billings Montana. Their living situation going uninterrupted is not only a risk to themselves but to the services available to the community. Without serious dialog between all parties involved in the medical services, mental health and addiction services, and emergency response, millions of dollars and high amounts of employee resources will

continue to be spent on a small fraction of the population, leaving an over taxed emergency response system for everybody.

Sources

Contributing agencies:

-Billings Police Department

Billings Police Records Supervisor Becky Shay provided all relevant data used from the law enforcement records software maintained by the Billings Police Department.

-Billings Clinic

Brad Von Bergen with the Billings Clinic, Manager Emergency and Trauma Center facilitated collecting the data for this study.

-Saint Vincent's Healthcare

April Luft, Director of Quality with Saint Vincent's Healthcare facilitated collecting the data for this study.

Officers Brad Mansur and Phil Tanis were Downtown Resource Officers working out of the Downtown Billings Alliance (DBA) as of 2021. This study was done under the supervision of the DBA CEO Katy Easton. Jenny Ross with the DBA provided statistical analysis and excel software support.

City Council Work Session

Date: 09/07/2021
Title: Marijuana business regulation, licensing, and zoning
Presented by: Karen Tracy
Department: Legal
Presentation: Yes

RECOMMENDATION

No action is required of council at this time. Staff is providing an update to City Council on regulatory options for consideration.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On August 9, 2021, City Council passed Resolution 21-10981 to place the question regarding whether to permit recreational, adult-use dispensaries within City limits to the voters. Contemporaneously with this matter being presented to the voters, a committee consisting of staff and council members is working toward developing regulations of marijuana businesses that will be allowed by state law, effective January 1, 2022.

The Montana Department of Revenue Cannabis Control Division indicates that there are 39 medical marijuana licensed businesses in "Billings." Internet available information and the city-county map confirms that 2 are within the city limits, 27 are outside the city limits but within the county, and addresses could not be located for the remaining licensed businesses. Repeated but unsuccessful attempts to obtain this information from the state have been made. It appears that many state functions are being transitioned in anticipation of the January 1, 2022, effective dates. Of the 2 businesses located in city limits, only one has a valid city business license to operate a medical marijuana business.

At the working group meeting on August 18, staff provided an overview of the proposed core elements of zoning regulation amendments to address marijuana businesses in Billings. Below are the main elements the working group reviewed and was generally supportive of so that staff could move forward with drafting zoning text amendments:

- Allow Marijuana Dispensary -- Medical, Adult and Combined Use in Heavy Commercial (CX), Light Industrial (I1), and Heavy Industrial (I2) districts (Map of location of these three zoning districts to be shared by staff at this meeting).
- Require 1,000-foot separation between all Marijuana Dispensaries allowed in CX, I1 and I2 from public or private schools, daycare centers, public recreation centers or public parks, churches, synagogues, or other place of worship, and youth centers (Draft Maps to be shared by staff at this meeting).
- Allow Cultivator, Processor/Manufacturer and Transporter in Heavy Commercial (CX), Light Industrial (I1), and Heavy Industrial (I2) districts
- Allow Testing Laboratory in Downtown Support (DX), Heavy Commercial (CX), Light Industrial (I1, and Heavy Industrial (I2) districts
- Add Marijuana Dispensary, Testing Laboratory, Cultivator, Processor/Manufacturer and Transporter to the Primary Use Table in the Zoning Code (Table 27-1000/.1)
- Clarify that marijuana cultivation, processing, manufacturing, sales, transportation or testing laboratories are not "Home Occupations" (Sec. 27-1008) and cannot be "Accessory" uses to a Primary Use unless the accessory use is located in one of the districts where the use is allowed as a Primary Use.
- Clarify that outdoor cultivation is not allowed within the city limits for any licensed Marijuana Cultivation operation.
- Require sign permit applicants to provide state sign approval at the time of application. (Sec. 27-1400 -or- Sec. 27-1622 (permitting). Consider whether to adopt state sign permit requirements more carefully once the rules are finalized by DOR, but require applicants to show state approval prior to city sign permit review.

Local governments throughout states with legalized marijuana employ a variety of regulatory structures, including:

- Caps on the number of dispensaries;
- Use of zoning to restrict marijuana business to certain areas;
- Regulating spacing between marijuana businesses;
- Regulating spacing between marijuana business and sensitive areas such as schools;
- Prohibiting marijuana businesses from being operated as home businesses;
- Limiting size of growing operations;
- Developing comprehensive licensing requirements and screening.

Staff has surveyed other local jurisdictions to determine how the above regulatory options have been utilized. It is common to see marked differences among cities within the same state. For example, Anchorage, Alaska does not cap dispensaries, while Fairbanks Alaska does have a cap. In Colorado, Fort Collins does not have a cap, while Pueblo caps recreational marijuana dispensaries at 8 and has developed a comprehensive scheme for the award, renewal, and revocation of those licenses. www.pueblo.us/DocumentCenter/View/14773/Retail-Marijuana-Rules-and-Regs?bidId=

The following publications were located which may assist the City Council in formulating marijuana business policy:

Zoning and dispensary caps:

EM Everson et al., Post-Legalization Opening of Retail Cannabis Stores and Adult Cannabis Use in Washington State, 2009-2016, *American Journal of Public Health*. 2019;109(9):1294-1301.

The above peer reviewed publication published results of a study that found that increasing cannabis retail access was associated with increased current and frequent use and noted "regardless of how cannabis is consumed, frequent use--such as daily or near-daily use--is likely of more concern than occasional use and has recently been identified as a risk. The study found that local retail access, but not state legalization of possession itself, was associated with increased cannabis use and that local jurisdictions may be able to limit increased use through enacting policies such as retail bans, moratoriums, caps on retail license numbers, or density or zoning restrictions. This was the case even for jurisdictions that bordered communities with less stringent policies given that use significantly increased in areas located within 0.8 miles of a retailer.

This publication is copyrighted, but is available for purchase through the following link: ajph.aphapublications.org/doi/10.2105/AJPH.2019.305191

Testing of products sold through dispensaries:

Although the State of Montana has provided for testing at the state level, because there is no federal regulation of marijuana, additional testing could be implemented by the City of Billings, either in this initial set of ordinances or in the future if the state's testing protocol is inadequate to address public health and safety concerns.

One study found that edible products tested in three major cities were significantly mislabeled: 23% were underlabeled (stronger than indicated), 60% were overlabeled with respect to THC content (less potent than indicated), and 17% were accurately labeled. Vandrey R, Raber JC, Raber ME, Douglass B, Miller C, Bonn-Miller MO. Cannabinoid dose and label accuracy in edible medical cannabis products. Research Letter. *JAMA*. 2015;313:2491-3. The article may be accessed through the following link: jamanetwork.com/journals/jama/fullarticle/2661569?resultClick=1

Public safety impact of legalization of marijuana:

The research in this area is a mixed bag. One study found no increase in *fatal* motor vehicle accidents but noted that data was unavailable to determine any change in the number of *non-fatal* motor vehicle accidents. Jayson D. Aydelotte et al. "Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado," *American Journal of Public Health* 107, no. 8(August 1, 2017): pp. 1329-1331. ajph.aphapublications.org/doi/10.2105/AJPH.2017.303848

Other studies have attempted to reach of definitive conclusion, but have been unsuccessful. See Wu Guangzhen et al. "Impact of recreational marijuana legalization on crime: Evidence from Oregon" *Journal of Criminal Justice* 72 (2020) 101742 <https://doi.org/10.1016/j.jcrimjus.2020.101742>

Considerations for limits on dispensary caps:

If Council elects to limit the number of dispensaries, several issues need to be considered:

- How many dispensaries
- How will the licensees be selected
- How will renewals and revocations be handled

With House Bill 701, the State of Montana effectively merged its regulatory structure for medical marijuana with recreational marijuana. The State of Washington took a similar approach and eventually merged its categories of licenses and capped its licenses at 556 (roughly one dispensary per 24,000 residents). By contrast, the City of Pueblo caps only the number of adult dispensaries and has capped that at 8 for a population of approximately 165,982 (roughly one dispensary per every 21,000 residents)

ALTERNATIVES

No formal action is required at this time, therefore no alternatives were analyzed.

FISCAL EFFECTS

The issue of local excise tax is also before the voters on November 2, 2021, so any revenue impact is uncertain at this time.

City business licensing fees to defray licensing expenses will need to be established and are expected to vary according to the types of regulations implemented.

SUMMARY

This is presented to update and inform Council of some issues that may need to be addressed with any city regulations. The studies cited above provide additional information for Council to review in order to make informed policy decisions. No action is required, but staff welcomes any specific direction Council will provide regarding zoning, buffer zones, caps on dispensaries, or any other areas Council wishes to see regulated.
