

# CANNABIS UPDATE

City Council Work Session

March 28, 2022



# CANNABIS LANDSCAPE





# NM CANNABIS TIMELINES

- NM Accept Applications
- Producers/Cultivation
- Microbusiness Producer

- NM Accepted all business license applications

JUNE 2021

SEPT 1, 2021

SEPT 7, 2021

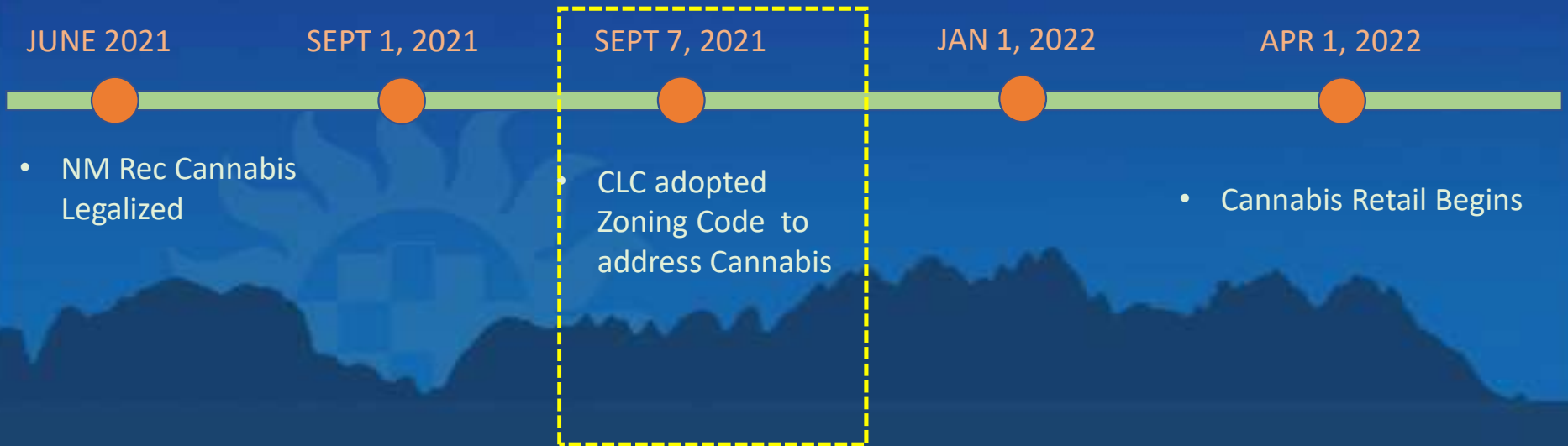
JAN 1, 2022

APR 1, 2022

- NM Rec Cannabis Legalized

- CLC adopted Zoning Code to address Cannabis

- Cannabis Retail Begins



# CANNABIS UPDATE

- Marijuana Opportunity Reinvestment and Expungement (MORE) Act
  - House of Reps vs Senate
- Expect shortages
- Testing Facility - Coming Soon
- Cannabis Expo 2022 in Las Cruces
  - Southern NM Cannabis & Hemp Exp



# CANNABIS ZONING REFRESHER



# CANNABIS ZONING

STATE LICENSE TYPE	CLC LAND USE TYPE	ZONING DISTRICTS
Cannabis Consumption Areas	Cannabis Retailer	C-1, C-2, C-3; *M-1/M-2
Cannabis Couriers	Accessory/related to other business types	variable
Cannabis Manufacturers	Cannabis Industry	M-1/M-2, M-3
Cannabis Producer Microbusinesses	Cannabis Microbusiness, Cannabis Industry	EE, REM with SUP; C-1, C-2, C-3; M-1/M-2, M-3
Cannabis Producers	Cannabis Industry	M-1/M-2, M-3
Cannabis Research Laboratories	Cannabis Research Laboratory	M-T, M-1/M-2, M-4
Cannabis Retailers	Cannabis Retailer	C-1, C-2, C-3; *M-1/M-2
Cannabis Servers	Accessory to Retail	N/A
Cannabis Testing Laboratories	Laboratory	O-2, C-2, C-3, M-T, M-1/M-2
Cannabis Training/Education	Accessory/related to other business types	variable
Integrated Cannabis Microbusinesses	Cannabis Microbusiness, Cannabis Industry, Cannabis Retail	EE, REM with SUP; C-1, C-2, C-3; M-1/M-2, M-3
Vertically Integrated Cannabis	Cannabis Industry	*M-1/M-2

\*retail in industrial zones ancillary to industry and limited to 5000 sq ft or 49%



# ZONING ALTERNATIVES

- Infill Development
- Cottage Industry (C-1, C-2, C-3, M-T, M-1/M-2, M-3, NMO, SMO, UDO)
- Overlay Zones (IDO, ADO, NMO, SMO, UDO, WMIP, DDC)
- Residential Zones
  - Personal Use (6 mature plants/ adult: max 12/ household)
  - Home Occupations
  - Microbusiness in EE or REM with SUP

# ZONING CONDITIONS

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- 300' from school/daycare
- Indoor consumption only
- No consumption in C-1
- Cannabis Retailer/Microbusiness
  - 300' from sf residential zones, 300' from other cannabis retailer
- Cannabis Microbusiness in EE or REM requires SUP
  - Accessory to residential,  $\leq 200$  mature plants, products must be grown on-site, fully enclosed accessory building, 100' from other residences
- Distancing deviations require SUP or Variance

# OBSERVATIONS

A stylized graphic at the bottom of the slide features a sun with a checkered face rising behind a dark silhouette of a mountain range. The sun is rendered in a light blue color, and the mountains are in a darker blue. The background of the slide is a gradient of blue, with the word 'OBSERVATIONS' centered in white text.

# SUPS AND VARIANCES

- SUP: use that may be allowed at a particular location if potential impacts mitigated
- Variance: numeric deviation from the code
- Commercial corridors often adjacent to SFR
- No proliferation of cannabis uses in one area/ neighborhood
- Buffer Deviation Applications (3/21/22)
  - Approved- 1 SUP, 1 Variance
  - In Process- 3 SUPs, 2 Variances

# OTHER

- Microbusiness/ Small Business Requests:
  - Incentives
  - Expedited review
  - Broader application of zones/home occupations
  - Reduced code requirements
- Confusion regarding State vs. City rules and regulations
- Underestimation of the complexity and costs of starting new business

# RECOMMENDATIONS

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- Realize Las Cruces
  - Shift towards generalized land use categories
  - Eliminate cannabis uses as distinct categories
    - Ex: retail, commercial agriculture, manufacturing, etc.
- Add operational requirements outside of Zoning Code
  - Similar to alcohol (LCMC Ch 5), tobacco (LCMC Ch 12 Article V), and other business types (LCMC Ch 16)
- Eliminate buffers from SFR zones and between retailers
- Retain school distancing requirements

# POLICY QUESTIONS

- Prioritize microbusinesses/ small-scale cannabis businesses
  - more comprehensive than just zoning
- Consumption:
  - Retain indoors only and monitor impacts (if any)
  - Include SUP provision or operational conditions for outdoor consumption areas

# BUILDING & PERMITTING



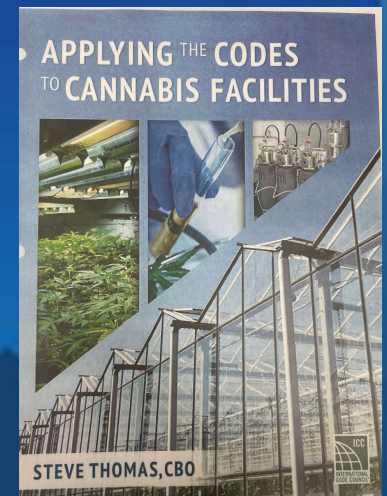


# BUSINESS REGISTRATION PROCESS

- Serves multiple purposes
  - Ensures that Tax & Revenue has correct information
  - Notifies that a business is in compliance with code
  - Allows for Change of Use/Occupancy/Occupancy Class
- Three inspections
  - Planning—is this business allowed in this location
  - Building—is the building safe and sustainable
  - Fire—is the business operation safe

# REGISTERING CANNABIS BUSINESSES

- Treated the same as any other business
  - Exception: we verify their status with Cannabis Control Division
- Staff training
  - Fire and Building staff attended up to 8 hours each
- Weekly Cannabis Business Pre-application Meeting
  - Wednesdays @ 2:30 PM
  - Usually 5-7 attendees



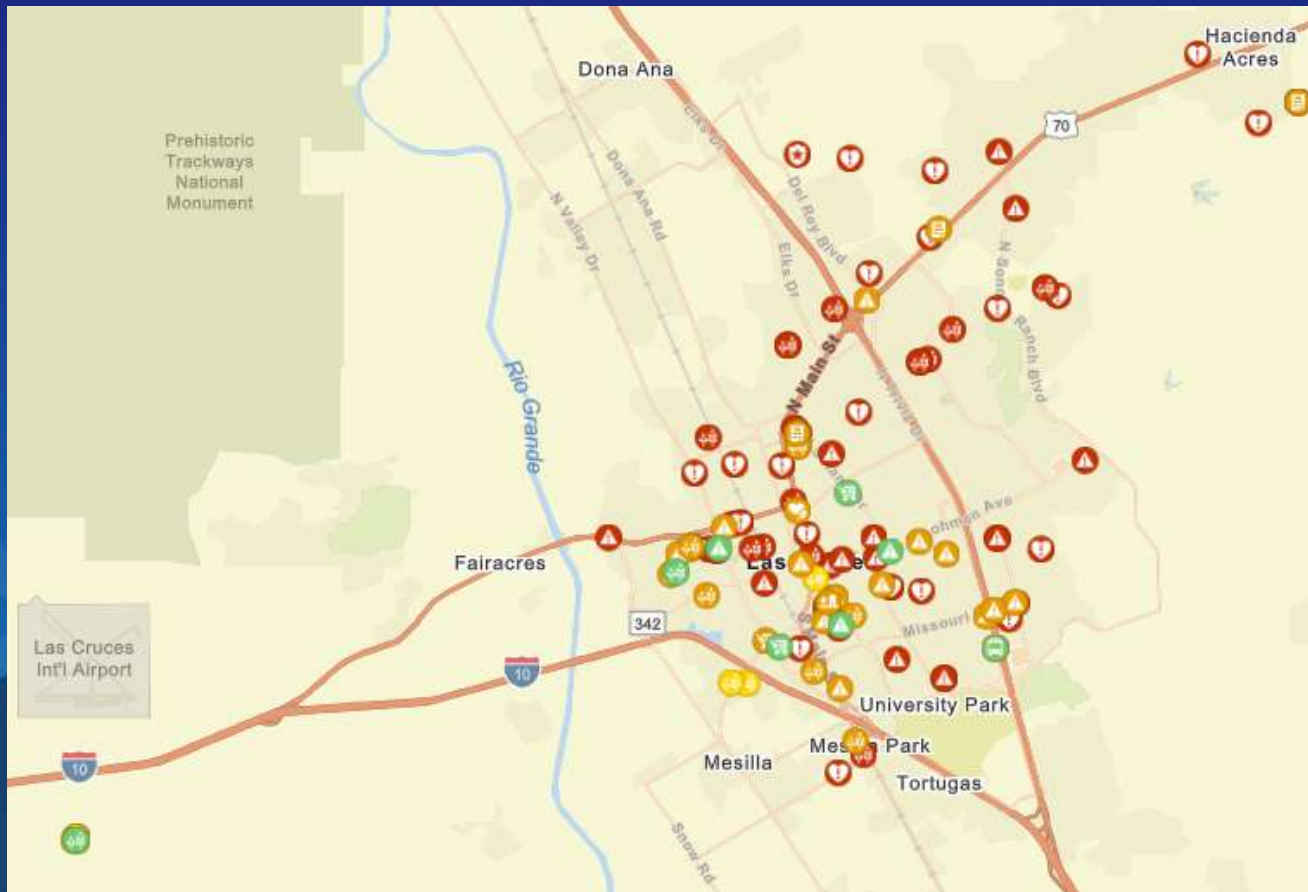
# MAIN ISSUES

- Knowing whether a permit is needed
- Path of egress and Exiting doors
- Security requirements
  - Knox box
  - Exiting doors
- Electrical and plumbing retrofits
- Bathrooms
- Understanding the scope of the business and safety risks



# CANNABIS BUSINESS MAP

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# CURRENT REGISTRATIONS

- Production/Grow
  - 13 Producer
    - 2 issued
  - 4 Microbusiness
  - 1 “Manufacturer”
- Courier
  - 1 issued as Home Occ
- Retail
  - 3 Medical Sales
    - 2 issued
  - 18 Recreational Sales
    - 2 issued
- State
  - 72 applications in LC
    - 3 producer; 1 retail approved

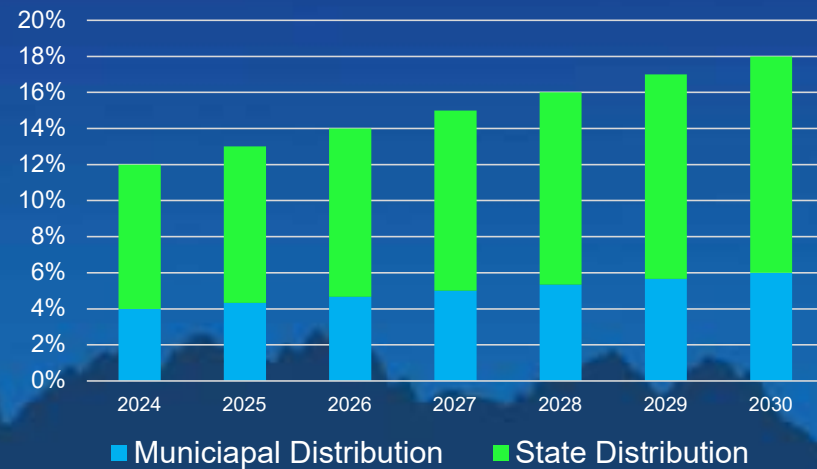
# CANNABIS TAX



# CANNABIS EXCISE TAX

- Imposed on a cannabis retailer
- Does not apply to medical cannabis
- Municipal Distribution 33.33%
- Administration Fee 3%

Year	Excise Tax
2024	12%
2025	13%
2026	14%
2027	15%
2028	16%
2029	17%
2030	18%

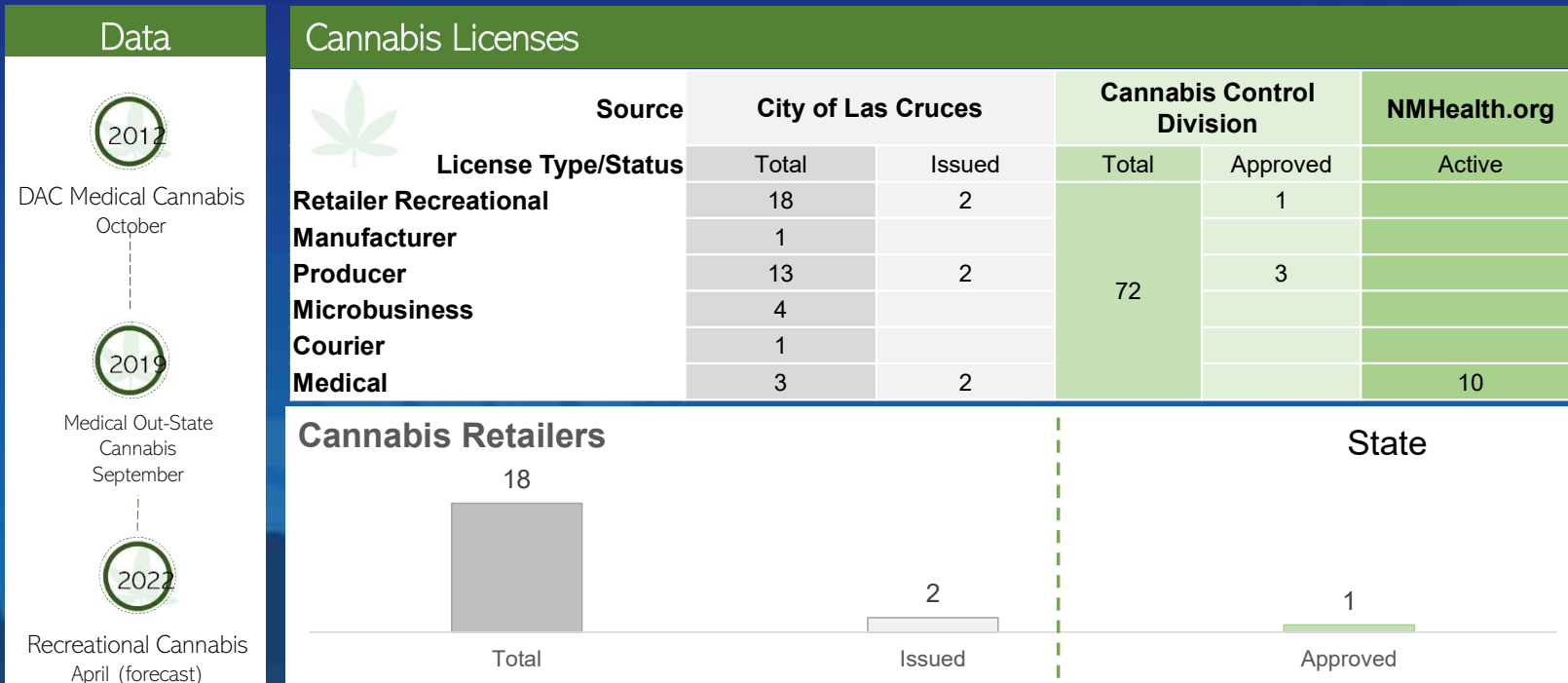


# ECONOMIC DEVELOPMENT

A stylized graphic featuring a sun with rays and a mountain range silhouette, rendered in shades of blue, positioned behind the main title.



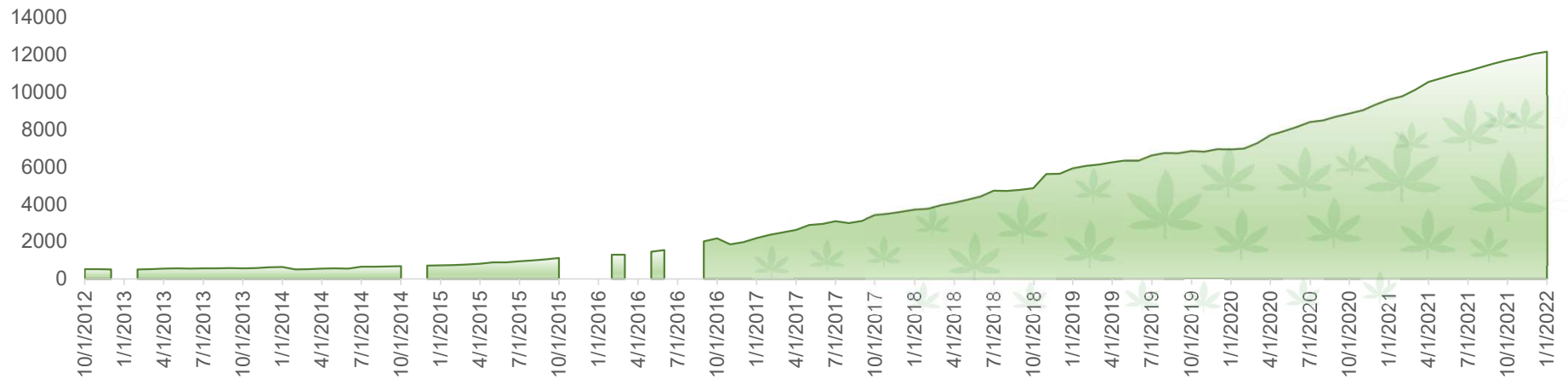
# CANNABIS BACKGROUND



Source: City of Las Cruces Permits-Community Development | NM Cannabis Control Division

# MEDICAL CANNABIS

Total Medical Licenses for Dona Ana County



<b>Most Common Condition (State):</b> 2021: Post-Traumatic Stress Disorder	<b>Dona Ana County:</b> 2021: 10,950 (mean)	<b>Out-of-State</b> 2021: 651 (mean)
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Source: NM Health <https://www.nmhealth.org/about/mcp/svcs/rpa>

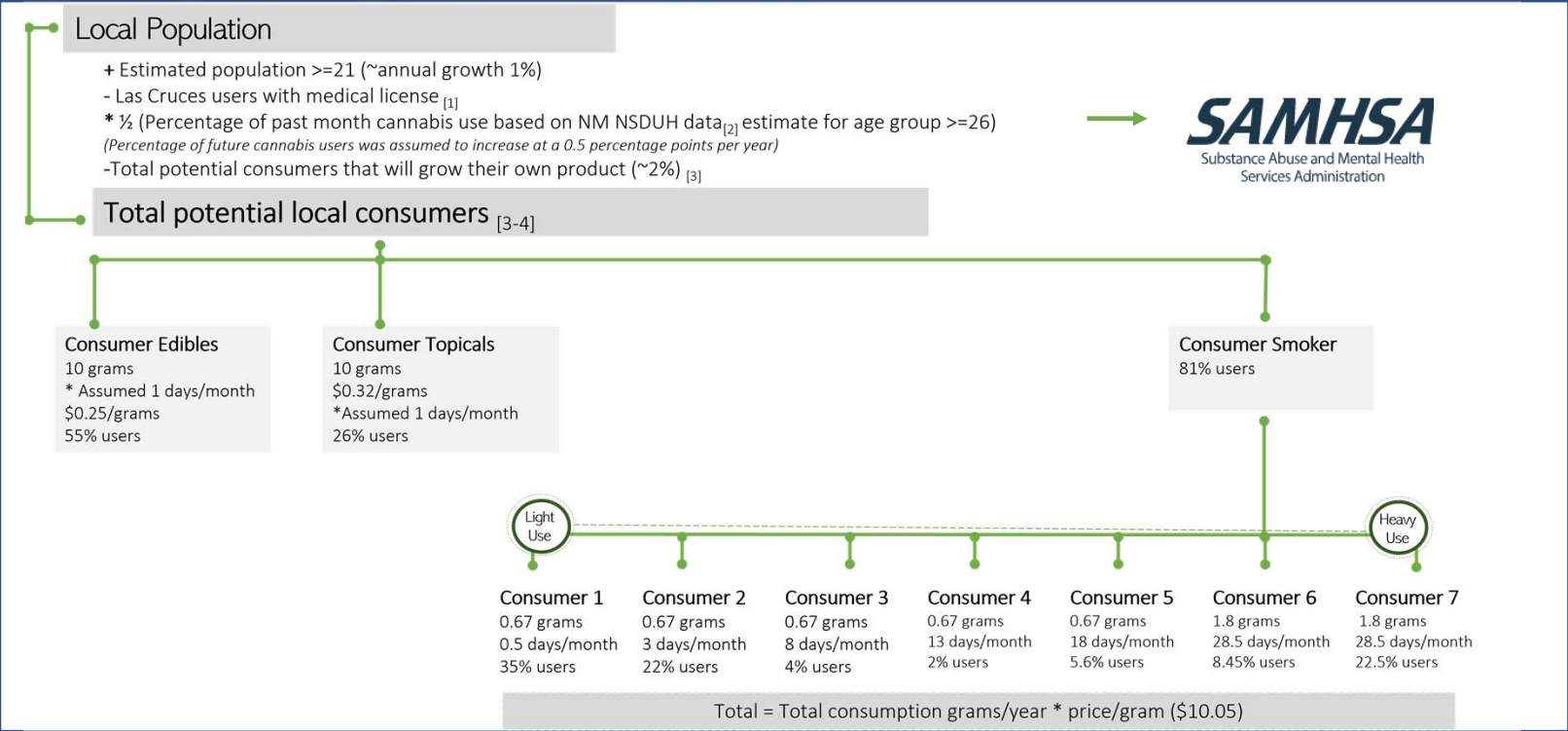
# LIMITATIONS AND CHALLENGES

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## Based on several assumptions related to:

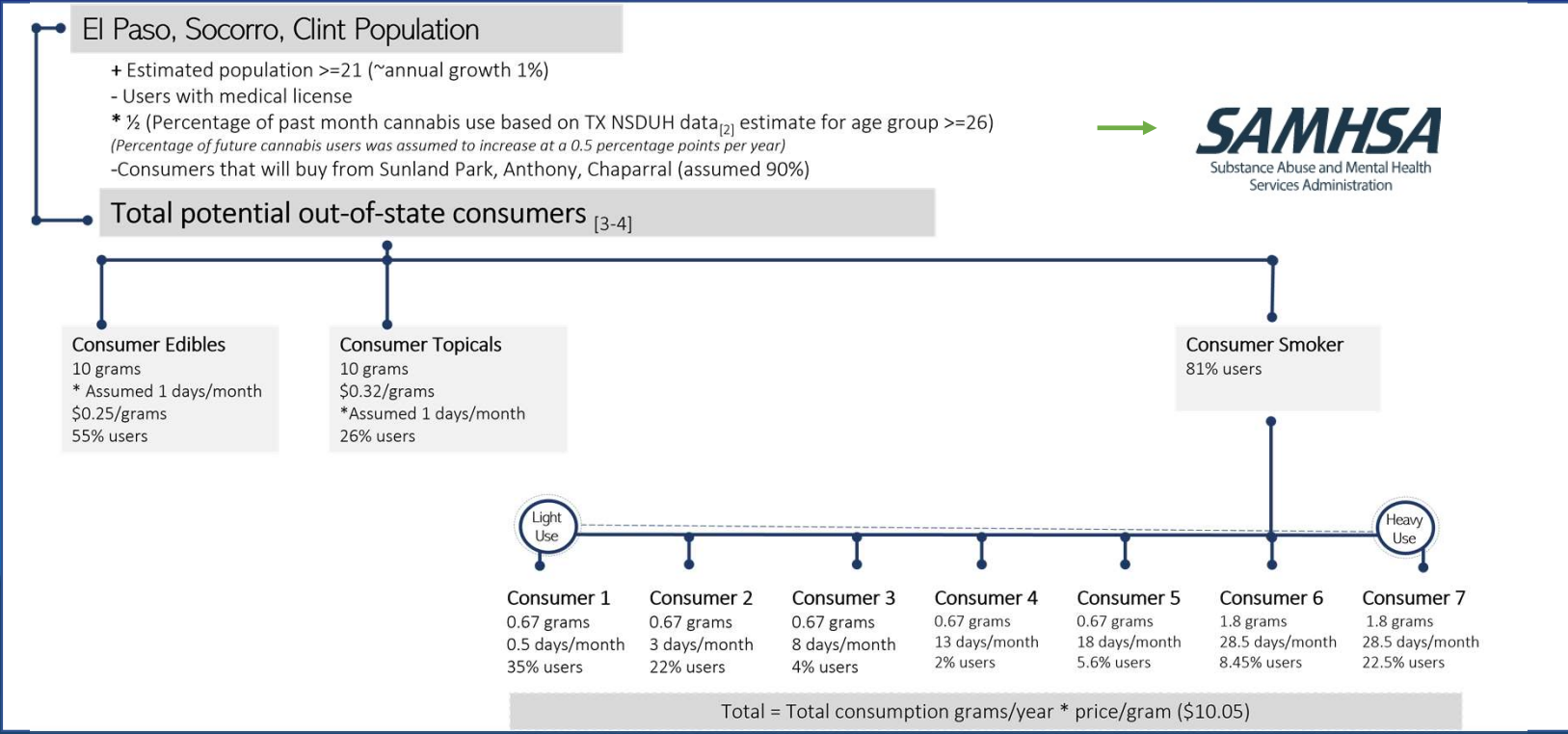
- **Population (local & out-of-state):**
  - Population  $\geq 21$  years old.
  - Growth rate.
  - No population from Mexico or parts from Texas other than El Paso, Clint & Socorro was included.
- **Number of medical licenses:**
  - Number of out-of-state and local medical licenses.
  - Growth rate.
  - Percentage of personal productive licenses.
- **Consumption (local and out-of-state):**
  - Amount
  - Frequency
  - Consumption growth rate
  - Type of product
  - Price
  - Number of users
    - No indirect revenues were considered (e.g., hotels, restaurants).
    - Potential supply side shocks were not considered as part of the analysis.

# METHODS & ASSUMPTIONS



Source: [1-4]

# METHODS & ASSUMPTIONS

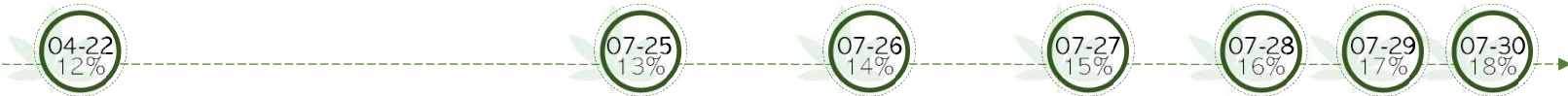


Source: [1-4]

# POTENTIAL REVENUE



**1/3 Excise tax**  
**+ ~ 3.16% GRT**



Source: [1-4]

# REFERENCES

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- [1] <https://www.nmhealth.org/about/mcp/svcs/rpa>.
- [2] SAHSA, NSDUH State Prevalence Estimates, Table 3.
- [3] O'Donnell Economics & Strategy. "Legalization of Cannabis for Social Use". New Mexico Market Analysis. Corrales, New Mexico, September 2016.
- [4] Sofis, Michael Ph.D.; Slade Mackenzie M.P.H. Estimating Cannabis Demand in New Mexico. June 23, 2021.

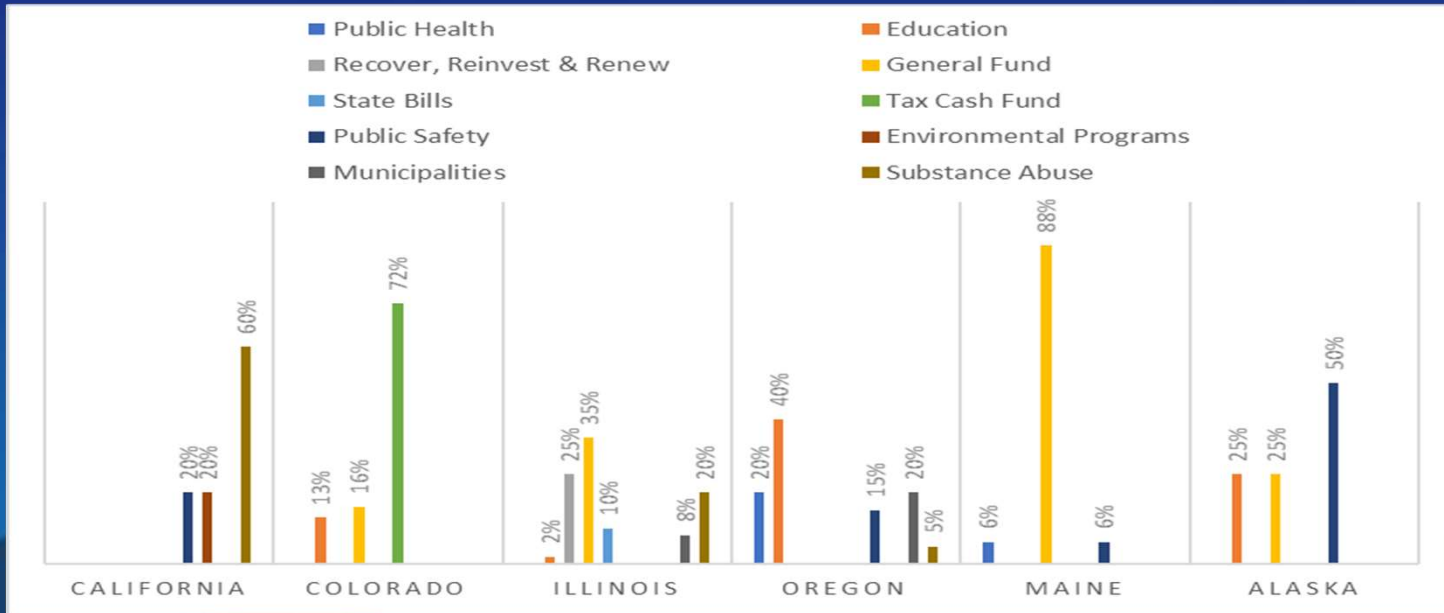
# CANNABIS OUTREACH

- Collaboration w/ Community Development Department in weekly Pre-Application sessions
- Monthly newsletter updates
- One-on-one business consultations
- Cannabis Information webpage
- Hosted two-day seminar +200





# CANNABIS REVENUE ALLOCATION



Marijuana Tax Revenue: A State-by-State Breakdown Christy Bieber Aug. 3, 2021

# PUBLIC SAFETY



# CANNABIS AND LAW ENFORCEMENT 35

## APPLYING THE LAW

- Smoking Cannabis in public is punishable by a \$50.00 fine (follow Clean Air Act)
- Any possession on school property or daycare center is a misdemeanor no matter the age of offender.
- Possession in **public** of more than 2-8 oz is a misdemeanor and over 8 oz is a felony.
- Underage possession (18-20 years old) carries 4 hours of community service or drug education.
- Driving under the influence is still ILLEGAL (same as alcohol)
- Selling to minors is illegal and felony

# CANNABIS AND SAFETY BUSINESS OWNERS

FOLLOW ALL STATE AND LOCAL LICENSE REQUIREMENTS

PHYSICAL SECURITY:

CAMERAS, STORAGE, LIGHTING, PROCEDURES

EMPLOYEES:

SAFEGUARDS TO AVOID THEFT, EMBELZZLEMENT, SIDE  
SELLS

# LEGAL



## DEE JOHNSON CLEAN INDOOR AIR ACT

- The City is required to make its own ordinance “inclusive of all the minimum standards and provisions for smoke free areas”. NMSA § 24-16-12.
- In 2019, the NM legislature amended NMSA § 24-16-12.
- In 2019, the NM legislature passed Cannabis Regulation Act.

## CITY'S CLEAN INDOOR AIR ACT (LCMC SECTIONS 12-121 THOROUGH 12-133)

- City adopted its own Clean Indoor Air Act in 1995 with Ordinance No. 1436.
- On August 6, 2018, with Ordinance No. 2870, the City amended it to include electronic cigarette devices.
- On December 6, 2021, with Ordinance No. 2989 (Cannabis Regulation Act)

## CURRENT ORDINANCE LCMC SECTION 12-126

- Ordinance No. 2989 permitted cannabis uses in the Cannabis Regulation Act
- The City prohibits outdoor recreational cannabis consumption.
- The City prohibits outdoor cannabis consumption for retail and commercial uses in Ordinance No. 2986.



## PERMITTED SMOKING AREAS

	PERMITTED SMOKING AREAS	CITY CLEAN INDOOR AIR ACT LCMC§12-126
(a)	Residence (Outdoor cannabis consumption limited)	√
(b)	Retail tobacco (stand alone, outdoor cannabis prohibited)	√
(c)	Cigar bar (stand alone, outdoor cannabis prohibited)	√
(d)	Tobacco manufacturing	√
(e)	Gaming, casino, bingo	√
(f)	Designated outdoor area (Cannabis consumption is prohibited)	√
(g)	Private club (Outdoor cannabis consumption prohibited)	√
(h)	Hotel & motel rooms (10% Capacity)	√
(i)	Native ceremonies	√
(j)	Theatrical/movie production	√
(k)	Consumption areas (Indoor only for cannabis)	√

# QUESTIONS

