Medical Marijuana Business
What Commercial Brokers Need To Know

DMCAR Monitors Legislation
DMCAR is actively monitoring and tracking the legislative discussions at the state, county and municipal level with regard to regulations of medical marijuana businesses. Below you will find some useful resources and information aimed to keep DMCAR members educated and informed on the issue of medical marijuana.

I. What does the state legislation say?

The Colorado State Legislature passed the first comprehensive bill dealing with the regulation of medical marijuana, (HB10-1284) during the 2010 legislative session. The bill allows for the licensing of the following medical marijuana (MMJ) businesses in the state:

1. Centers (aka dispensaries) – retail sales of medical marijuana to patients with a MMJ card
2. Optional Premises Cultivation Operations (aka growing) – have to be held in ownership with a MMJ dispensary/center in the same jurisdiction
3. Infused Product Manufacturers – manufacturing of products containing medical marijuana

The State law permits MMJ businesses in any area that does not have its own local approved regulations. If local regulations have been adopted, they take precedence and must be complied with.

Local governments can allow MMJ businesses by:
   A. Doing nothing and following the State law; or
   B. Adopting local legislation setting forth certain regulations for MMJ businesses

Local governments can disallow MMJ businesses by:
   A. Adopting legislation to ban MMJ businesses; or
   B. Approval of a popular vote

Many local jurisdictions are currently deciding whether to:
1. Do nothing and permit MMJ business consistent with the State law;
2. Pursue a local ordinance or initiative for popular vote to disallow MMJ businesses in the local jurisdiction; or
3. Adopt legislation setting forth local rules and licensing regulations

II. What are the MMJ laws in various Colorado cities and counties?

The following section provides a basic overview, status and comparison of how certain Colorado cities and counties have regulated the medical marijuana businesses. The Denver ordinance is discussed in detail.

The chart below shows the status of MMJ laws in various jurisdictions in Colorado and whether they have: (a) prohibited all MMJ businesses by popular vote; (b) prohibited all MMJ business by council action; or (c) adopted local licensing regulations by council action.
<table>
<thead>
<tr>
<th>Prohibition (by popular vote)</th>
<th>Prohibition (by council action)</th>
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<td>Centennial (moratorium until 6/30/11)</td>
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<td>Superior</td>
<td>Louisville</td>
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* All jurisdictions with adopted regulations should be reviewed carefully before conducting any business in that jurisdiction, as regulations vary widely.

**City & County of Denver:**

On February 22, 2011, Denver City Council adopted the Denver Medical Marijuana Code (DMMC). The DMMC allows licensing of medical marijuana businesses in the City & County of Denver and establishes specific standards and procedures for local licensing of medical marijuana centers (dispensaries), optional premises medical marijuana cultivation operations (growing facilities) and medical marijuana infused products manufacturers.

The following is a summary of some important aspects of the DMMC.

**Obtaining a License:**

The first item the DMMC sets forth for any MMJ business in Denver is the requirement to obtain or renew a license in the City & County of Denver by July 1, 2011. Regardless of whether a preexisting license has been obtained, all licenses must be renewed by July 1, 2011.

**Term of Licenses:**

All MMJ licenses are valid for a period of two years and must be renewed consistent with the City’s regulations set forth in the code.

**Licensing Requirements:**

The following is a synopsis of some of the licensing requirements for medical marijuana centers, optional premises cultivation operations and infused projects manufacturing in Denver.

**Medical Marijuana Centers** (Dispensaries):

a) *Tax Bond* – procure and file with the City a tax bond of $5,000

b) *Area map* – drawn to scale, indicating land uses of property within a 1,000-ft radius of the location, depicting the proximity to any school or child care establishment; to any other medical marijuana center; to any alcohol or drug treatment facility; or to any residential or U-MS-2x zone district

c) *Prohibited locations*

1. In any residential zone district as defined by the zoning code of the city; in any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning code
of the city; or in any location where retail sales are prohibited by the zoning code or by any ordinance governing a planned unit development
2. Within one thousand (1,000) feet of any school or child care establishment
3. Within one thousand (1,000) feet of any other medical marijuana center
4. Within one thousand (1,000) feet of any alcohol or drug treatment facility

Optional Premises Cultivation Licenses (Growing Operations):
  a) Compliance with zoning
   1. “Permitted Locations” – a cultivation license may be issued in any zone district where, at the time of application for the license, plant husbandry is authorized as a permitted use under the zoning code. The only zone districts in the new Denver zoning code that allow plant husbandry are as follows:
      i. I-A (light industrial) – must be 500-ft from any residential zone district
      ii. I-B (heavy industrial) – allowed without limitation
   2. “Grandfathered Locations” – prior to July 1, 2011, a cultivation license may be issued in a location where plant husbandry is not a current permitted use, but is already occurring as a compliant or non-conforming use under the zoning code, if and only if the applicant meets the following requirements:
      i. A zoning permit for plant husbandry was applied for on the same zone lot on or before July 1, 2010
      ii. The applicant (or whomever the applicant acquired the property from) applied for a cultivation license on the same zone lot with the State Medical Marijuana Licensing Authority on or before August 1, 2010
      iii. The applicant (or whomever the applicant acquired the property from) can produce to the satisfaction of the Director, documentary or other empirical evidence that the applicant had in fact commenced the cultivation of medical marijuana on the zone lot prior to January 1, 2011
   3. “Renewal Hearings for Grandfathered Locations” – any cultivation licenses granted for “grandfathered locations” pursuant to paragraph #2 above shall be subject to a public hearing prior to any renewal of the license (every two years). The public hearing will be conducted by a hearing officer, similar to those for liquor license applications and anyone can show up and testify. If, at the hearing, the cultivation location is found to meet any one of the four criteria (i, ii, iii, or iv) below, the license may not be renewed:
      i. The existence of the medical marijuana cultivation on the licensed premises has frustrated the implementation of the city’s comprehensive plan and any adopted neighborhood plan applicable to the subject property
      ii. The existence of the medical marijuana cultivation operation on the licensed premises has negatively affected nearby properties or the neighborhood in general, including by way of example any adverse effects caused by excessive noise, odors, vehicular traffic, or any negative effects on nearby property values
      iii. The existence of the medical marijuana cultivation operation has caused crime rates to increase in the surrounding neighborhood
      iv. The continued existence of a licensed medical marijuana cultivation operation in the subject location will have a deleterious impact on public health, safety and the general welfare of the neighborhood or the city.

Medical Marijuana Infused Products Manufacturing License:
  a) Compliance with zoning; grandfathering of existing locations – A local license for medical marijuana infused products manufacturing may be issued for any zone lot where “food preparation and sales” or “manufacturing, fabrication and assembly, general” is permitted by the Denver zoning code. Any zone lot where any person qualified as a “locally approved” medical marijuana-infused product manufacturer as of July 1, 2010 in accordance with section 24-411 (c) and the CMMC (Colorado State Code) may also
qualify for licensing under this section provided such manufacturing is considered a compliant or non-conforming use in that location under the zoning code.

b) **Sanitation, product labeling, and public health standards** – Sanitary standards for medical marijuana-infused products manufacturing shall be as provided by the CMMC and any other applicable state laws and regulations. Any and all medical marijuana products packaged by a licensed medical marijuana manufacturer shall be labeled in accordance with state law.

This information will be updated on a periodic basis, as laws change. The information provided in this document should not be considered precise law. This is a summary and is intended for informational purposes.

Please contact DMCAR Government Affairs Liaison Sean Maley for more information at 303-570-3096 or smaley@crlassociates.com.

3/1/11
This document is prepared for informational purposes only. It is recommended that you consult corporate council on specific issues related to Medical Marijuana in real estate. Federal law precedes local and state legislation and prohibits MMJ business.