



Thinking Locally

WORKING WITH LOCAL GOVERNMENT AGENCIES IS CRITICAL TO THE SUCCESS OF YOUR BUSINESS.

BY RICHARD D. PIO RODA AND KATE COOK

LOCATION is critical to the success of any business. For a cannabis venture, location could mean the difference between life and death. Even after you find the perfect spot, you still have to think locally to ensure success. This means doing your homework, reaching out to local authorities, and playing by the rules to make sure you (and local officials) avoid trouble.



STEP 1: SURVEY THE LANDSCAPE.

Every city and county has a different approach to cannabis uses. Local land use authority, police powers, and state law grant cities and counties the ability to regulate cannabis in a way that works for their specific communities.

The city or county you choose may or may not have cannabis policies set in stone. Elected officials across the state ask themselves these questions: Should we allow cannabis businesses? If so, which type? Where? How many? What operating standards should apply? What taxes and fees can we charge? What's happening in neighboring communities?

Calling the city or county planning, community development, or economic development department is the best way to determine where the jurisdiction is in the regulatory process. If no policy changes are underway and the jurisdiction's cannabis regulations already are established, then proceed to Step 3, below. However, if the jurisdiction is in the midst of potential policy changes, see Step 2, because you likely have work to do.



STEP 2: CONTRIBUTE TO THE CONVERSATION.

The ideal business spot may be where cannabis regulations are a moving target. For those who can handle uncertainty, putting in the extra effort to participate in the cannabis conversation may be worth it. You could influence local decisions and open doors for yourself and others in the industry.

Planning or community development department staff can direct you to meeting agendas and videos that will provide insight about where elected officials may be headed with regulation. Find out who attends meetings and which stakeholders are represented.

Without cannabis industry representatives in attendance, decision-makers may miss critical information. They may make assumptions that reflect the usual situation, in which the only individuals speaking up are residents who oppose the industry.

For example, your testimony at a public meeting and subsequent follow-up may influence a decision-maker to allow indoor cultivation in more zoning districts, or you could educate residents about how cannabis manufacturing really works. Connect with other industry representatives in the local jurisdiction to strengthen your voice.



STEP 3: CHECK ZONING.

A real estate broker's assurance "manufacturing" or "nurseries" are allowed in a certain location does not mean your cannabis business is good to go. Local zoning regulations often treat cannabis uses as entirely separate categories. A call to the planning department is critical to determine exactly what uses are allowed and where, particularly because government websites and approved-use maps may not be up-to-date.

For example, many jurisdictions allow commercial cultivation, but only in particular zones. Some welcome all manufacturers; others only allow non-volatile manufacturers. Retail may be allowed in a commercial area, but not on Main Street. And there could be distance requirements from sensitive uses such as schools, parks, daycares, and youth centers.



STEP 4: WIN OVER PROPERTY OWNERS AND NEIGHBORS.

Most cities and counties require property owner permission, in writing, before allowing a cannabis business to get underway. If you own the building or parcel, you have a major advantage. If not, make sure the property owner is comfortable with your business and willing to put that in writing. If you are located where neighbors could oppose your business, meet with them and address their questions about your security measures, operating hours, hiring practices, etc. Describe the positive impacts your business will bring to the community. Doing this outreach ahead of time—before seeking a permit from the planning commission or elected officials—is critical.



STEP 5: OBTAIN THE CORRECT PERMITS.

Most jurisdictions require at least one type of permit for cannabis businesses. This may be a conditional-use permit or a special business permit or both. A retail shop may have its own process that requires submitting a "proposal" within a preset timeframe. Many jurisdictions also require a business license as well as a building permit if you plan to make tenant improvements to your space.

Whatever the process, it will be costly and time-consuming, and it may require approval from a department head, planning commission, or elected officials. Complete application materials will short-

en the process. Your contacts in the local planning department can help explain delays and keep the process moving along.

Make sure all fees are paid in full and pay close attention to any "conditions" placed on your permit. Most jurisdictions require specific operational and security measures for cannabis operations. Failing to follow them could mean losing your permit.



STEP 6: PLAY BY THE RULES.

Elected and appointed officials are required by state law to follow a strict set of rules when meeting and discussing with business principals or permit applicants. Some may choose not to meet with you, taking a "no lobbying" stance. Know these rules so you can have productive conversations without creating a situation that causes a local official to run afoul of rules. For example, even paying for lunch with elected officials and certain staff members in order to get to know them may come under certain regulatory scrutiny. Officials may also be required to disclose communications they have had with an applicant before making a decision on a permit or other land use entitlement.

Evaluation of applications to operate a cannabis business likely will occur in a public forum before a city council or board of supervisors. These meetings are attended by the public, recorded, and usually televised. That means statements you make during the meetings will be attributed to you, your business, and your operations. If you are not comfortable becoming part of the public record, consider hiring consultants, attorneys, or others who can make presentations on your behalf or advise you through the final steps of the process.



RIGHT PLACE; RIGHT TIME

Greenwave Advisors reported U.S. retail marijuana sales reached nearly \$6.5 billion in 2016, 35 percent more than 2015. Greenwave estimated sales will increase 18 percent to \$7.7 billion in 2017, and California will account for 40 percent of the market. In other words, now is the right time to launch or expand your cannabis business in California, but locating it in the wrong place could shut the door on the extraordinary opportunities in what is being called the next gold rush. The success of your business depends on starting on the right foot at the right time in the right place. ^{mg}



RICHARD D. PIO RODA is a principal at Meyers Nave, and KATE COOK is a senior associate. The firm's interdisciplinary team of attorneys guide public and private clients through the complex laws, regulations, and practical challenges emerging in the cannabis industry. Areas of practice include public agency law, environmental compliance, labor and employment, elections, water issues, land use and zoning, taxation, real estate, licensing, and litigation.