



Kara Keefe-Mullin  
 Assistant City Manager/Acting DPD Director

R. Eric Slagle  
 Director of Development Services

David Fuller  
 Building Commissioner

TO: Eileen Donoghue, City Manager *EMD*  
 FROM: R. Eric Slagle, Director of Development Services  
 DATE: March 17, 2021  
 RE: Motion by Cannabis Control Subcommittee - Req. City Mgr. Provide an Update Regarding Host Community Agreements along with Revenue Generated from Them, and Proposal For Delivery HCA Process.

As the Council is aware, the City in December of 2019 authorized the negotiation of Host Community Agreements (HCAs) with four entities for retail locations within the City, in addition to Patriot Care. The businesses that currently have HCAs for retail locations are as follows:

Entity	Location	Status
Patriot Care	70 Industrial Ave. E.	Open and operating since March of 2019
Mayflower Medicinals	470 Chelmsford St. #7	Has SP from Planning Board and State License; Currently in buildout
Full Harvest Moonz	1201 Westford St.	SP from Planning Board on appeal; Has State License
Pure Industries	671-683 Rogers St.	Has SP from Planning Board and State License; Currently in buildout
Fresh Fields	1148 Bridge St.	Has SP from Planning Board and State License; Currently in buildout

The City has also signed an HCA with a Marijuana Testing Laboratory, which will contract with Marijuana Cultivators and Product Manufacturers to test their products prior to retail sale.

Assured Testing Laboratory – 59 Lowes Way

Additionally, the City has executed several agreements for marijuana cultivation and manufacturing. Of these locations, Patriot Care and BeWell Organic Medicine are currently up and running, while the remainder of these entities are in various stages of licensing and build-out. The businesses and locations are as follows:

Advanced Cultivators, LLC – 100 Phoenix Ave.  
 BeWell Organic Medicine – 92 Bolt St.

Four Twenty Industries – 3 Foundry St.  
Grow One, Inc. – 60 Dix St.  
Grow Team Gardens – 705 Dutton St.  
Hydration, LLC – 20 Payton St  
Patriot Care – 170 Lincoln St.  
Platinum Hydrolab – 740 Dutton St.  
Pure Industries – 181 Stedman St.  
Wellman Farms – 26 Wellman Ave.

Additionally, this report will provide the Council with an update on the Marijuana revenue received to date. The first source of revenue authorized under the statute is a 3% local tax on all recreational marijuana sales. This local tax requires adoption by a vote of the City Council, which the Council took on May 15, 2018. This local tax is unrestricted revenue deposited into the General Fund which the City may appropriate and spend as it sees fit, as it does with any other General Fund revenue. On January 29<sup>th</sup>, 2019, the Council voted to dedicate 25% of this local tax revenue to repair and maintain municipal buildings. The legislation does not contain a sunset provision on this local tax, so there is no end date for the collection of this revenue.

The second source of revenue contemplated in the regulations is the community impact fee which a municipality is allowed to negotiate in a Host Community Agreement (HCA) with a marijuana business. The regulations specifically cap this fee at 3% of the gross sales of the marijuana business. In each HCA that has been negotiated and executed by the City Manager for a recreational marijuana business in the City, we have required the maximum community impact fee of 3%. Unlike the local tax option described above, the community impact fee can only be used to offset specific community impacts of a marijuana business. Those expenditures must be documented and maintained as a public record. In the HCAs that the City has negotiated thus far, we have added a clause which spells out a list of items that the parties agree are eligible expenses for the community impact fees, which include, but are not limited to, the following:

- A. First responder programs (including, but not limited to law enforcement, fire response, EMS, hospitals and clinics);
- B. Lowell Board of Health initiatives;
- C. Drug abuse prevention/treatment/counseling/education program(s);
- D. Primary and secondary drug education programs;
- E. Traffic mitigation and infrastructure improvement;
- F. Increased police patrols;
- G. Costs associated with Secret Shopper program;
- H. Drug recognition expert funding;
- I. City purchase, use, and training associated with administering Narcan;
- J. City planning and inspectional staff, including overhead.

At the current time, the statute and regulations limit the collection community impact fee to five years. Thus, under the current setup, this revenue source will cease after five years.

To sum up, for five years, the City will collect a total of 6% of gross marijuana sales from recreational marijuana facilities, divided evenly between 3% unrestricted local tax revenue and 3% community impact fees which must be used for a specific purpose. After five years, the City will only collect the 3% unrestricted local tax revenue.

To date, the City has collected the following revenue from marijuana businesses:

1. Marijuana Excise Receipts –  
GENERAL FUND\*
  - a. FY2019 = \$30,785.67
  - b. FY2020 = \$322,586.63
  - c. FY2021 (YTD) =  
\$113,864.83\*\***TOTAL (Life to Date) =**  
**\$467,237.13**

2. HOST Community Revenue –  
GENERAL FUND
  - a. FY2016 = \$20,000.00
  - b. FY2017 = \$75,000.00
  - c. FY2018 = \$62,500.00
  - d. FY2019 = \$93,750.00
  - e. FY2020 = \$471,552.39
  - f. FY2021 (YTD) = \$320,322.72**TOTAL (Life to Date) =**  
**\$722,802.39**

3. Marijuana Excise Receipts –  
Municipal Facility Stabilization Fund
  - a. FY2019 = \$10,261.89
  - b. FY2020 = \$107,525.89
  - c. FY2020 = \$736.52 (Interest on  
Investments)
  - d. FY2021 = \$37,954.95**Total (Life to Date) =**  
**\$156,479.25**

\*Pursuant to the vote of the Council to set up the Municipal Facility Stabilization Fund (from 2019) & allocate 25% of excise receipts to the fund, the total receipts in the General Fund is equal to 75% of the total collections.

\*\* FY2021 totals are for the first 2 quarters of disbursements from the State (9/30 & 12/31). There will be two more payments posted this fiscal year for 3/31 and 6/30.

### Delivery

With respect to the regulation of Marijuana Delivery in the City, at the end of September of 2019, the CCC proposed regulations that allowed Marijuana Delivery Businesses to begin. Those regulations were commented on, and adopted in part. Subsequently, the CCC proposed amendments to those regulations, and adopted them at the end of November 2020. For delivery, the CCC will have a two-year window where a limited number of Social Equity and Economic Empowerment applicants will be allowed to apply for licenses to be a delivery-only retailer. The Delivery program will be administered as follows:

- Under the adult-use cannabis program, a Delivery-Only license type will be offered for certified Economic Empowerment Priority Applicants, Social Equity Program Participants, and Microbusinesses with a Delivery Endorsement from the Commission, for an initial period of two years.
- A new type of delivery license, the Wholesale Delivery License, allows entities to provide delivery without a relationship with an existing Cannabis producer or retailer. In effect, this license type would allow a company to grow, manufacture, and deliver its own product.
- Delivery for adult-use cannabis consumers will be permitted in municipalities in which retail sales are permitted, delivery businesses are located, and those that notify the Commission that delivery may operate within its borders. Service will be

prohibited from dormitories and other university housing, commercial hospitality operations including hotels and bed-and-breakfasts, and federally subsidized housing.

- To ensure marijuana products are distributed to consumers of legal age and correct identity, adult consumers who choose to utilize delivery services will first need to pre-verify their age and identity through the marijuana retailer from which they intend to order products, either in person or online.
- Medical-use deliveries will be prohibited from dormitories and other university housing and federally subsidized housing, but patients will not be required to pre-verify through a Medical Marijuana Treatment Center.
- To maximize the safety and security of delivery drivers, consumers, and patients, regulations for both the proposed adult-use delivery program and the existing medical use of marijuana program have been developed consistent with retail operation safety protocols including the use of vehicle cameras for all deliveries, and body cameras for adult-use deliveries.
- Video of adult-use cannabis deliveries will be retained for a minimum of 30 days or the duration of an investigation by the Commission or law enforcement and may not be shared with any third party not explicitly authorized by the regulations without a court order or warrant.

For Lowell, this means that licensed Marijuana Delivery Businesses would be allowed to deliver marijuana to customers in Lowell, since retail sales are allowed in the City. As such, we would recommend that the City begin the process of vetting and negotiating with delivery applicants, with a focus on certified Economic Empowerment Priority Applicants, Social Equity Program Participants. It is the intention of the administration to take a deliberate approach to this business group so that we have the best businesses for Lowell. To do so, we will employ the following guidelines:

1. The use of a vacant or underutilized parcel;
2. The existence or commitment to have and/or expand cultivation facilities within the City;
3. Priority given to woman-, minority-, and veteran-owned businesses;
4. Sufficient capital to fund the operation;
5. Commitment to community impact/outreach above and beyond the requirements of the HCA;
6. Commitment to meeting the Leadership Rating criteria laid out by the CCC;
7. Location of the proposed facility, both the location itself and the location in relation to other proposed sites;
8. Job creation; and
9. Expertise in the industry.

Additionally, the administration would reserve the first three (3) delivery licenses for certified Economic Empowerment and Social Justice applicants, allow a possible license to a Wholesale Delivery applicant, and then put a pause on signing any other HCAs until the businesses are up and running and we have a better idea as to the demand for delivery in the region.

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