

# POT, PLACEMAKING & PROSPERITY

WHAT CANADIAN COMMUNITIES CAN LEARN FROM  
DENVER, COLORADO'S CANNABIS CONTROLS

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**CASE  
IN  
POINT  
2018**

## **ABSTRACT**

In the spring of 2017, the Government of Canada announced legislation, Bill C-45, to legalize recreational cannabis across the country, rolling out in summer 2018 (Zimonjic, 2017). With that deadline fast approaching, municipal and Indigenous governments are hurriedly drafting policies to shape how cannabis is used in their jurisdictions. While they must comply with federal and provincial policies and regulations, municipalities and First Nations have the latitude to establish policies to guide retail location and rules, public consumption, and land use and zoning.

The legalization of cannabis in Canada will have a significant impact on society and local policy will shape how people interact with pot in cities. Canadian communities looking to use this opportunity to heighten placemaking, tourism, and economic development can look to Denver, Colorado. The City was put in a similar position as Canadian communities when ballot initiatives legalized cannabis retail, recreational use, and public consumption. The City's collaborative approach prioritizes responsible handling of cannabis while exploring how cannabis can bolster Denver's placemaking and economic development.

## BACKGROUND & CONTEXT

### Legalization in Canada

The Government of Canada’s legislation sets consistent production policy and possession limits across the nation, though provinces have a say in distribution, home cultivation, and public consumption. As shown in Figure 1, municipalities are responsible, at least in part, for three activities: land use planning and zoning, public consumption, and retail location and rules (Government of Manitoba, 2018, p. 2). At the annual conference of the Assembly of First Nations, Indigenous leaders called for more control than municipalities as they strive for self-governance (Galloway, 2017).

Municipal and Indigenous policy-makers must navigate public opinion and political will as they develop the best approach for their communities; they may decide to be strict, permissive, or somewhere in between. Communities that wish to prohibit cannabis sales must hold a plebiscite by 2022 (Government of Manitoba, 2018, p. 6). Alternatively, they may design policies that guide retail opportunities according to political and public interests. Communities interested in cannabis-related economic development and tourism opportunities may design policies that allow the industry to flourish through placemaking.

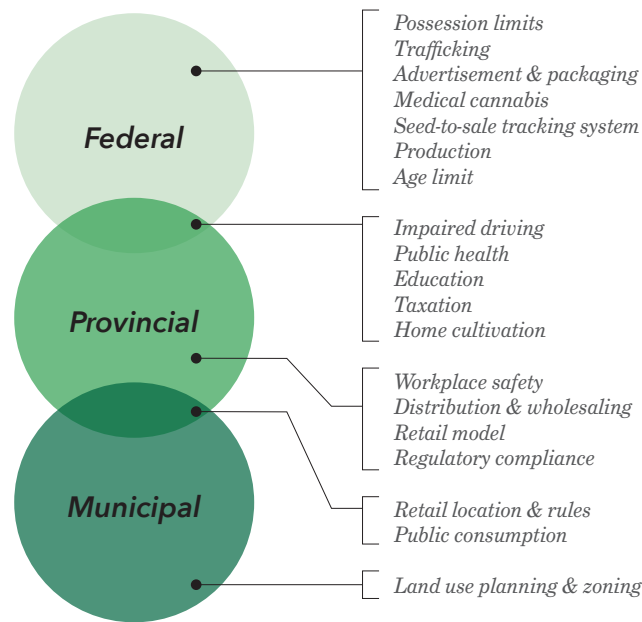


Figure 1. Each level of government is responsible in whole or in part for a variety of activities. Adapted from “Zoning for Cannabis: A Guide for Manitoba Municipalities,” by the Government of Manitoba, 2018, Retrieved from <http://www.amm.mb.ca/download/guides/Zoning-for-Cannabis-Guide-January-2018-FINAL-version-1.0.pdf>, p. 2.

### Legalization in Denver

In Colorado, legalization came about from a bottom-up process when citizens advocated for the legalization of

recreational cannabis use. They drafted legislation and petitioned for the required signatures to trigger a ballot initiative. In 2012, Colorado voters passed the ballot initiative, thereby amending the state constitution to permit the production, consumption, and sale of cannabis. The decision went into effect January 1, 2014 after a period of administrative planning. A separate ballot initiative was introduced for the City of Denver through a similar process to allow public consumption of cannabis. In 2016, voters approved Initiative-300 to permit people to consume cannabis at licensed businesses as part of a pilot project (M. Duplechian, personal communication, March 21, 2018).

Due to the bottom-up legalization process, different cities in Colorado have different regulations. Further, though cannabis is legal at the state level, it is not at the federal level. In reaction to the growing list of states that legalized cannabis through ballot initiatives, then-Deputy Attorney General James Cole wrote a memo in 2013 – “the Cole Memo” – that set the federal stance on cannabis legalization at the state level. It states that if 8 specific principles, shown in Figure 2 are followed, the federal government will stay out of cannabis issues at the state level (Cole, 2013). These principles are the

### U.S. DEPARTMENT OF JUSTICE MARIJUANA ENFORCEMENT PRIORITIES

- 1 preventing the distribution of marijuana to minors;
- 2 preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- 3 preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- 4 preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- 5 preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- 6 preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- 7 preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- 8 preventing marijuana possession or use on federal property.

Figure 2. U.S. federal marijuana enforcement priorities outlined in the Cole Memo. Adapted from “Guidance Regarding Marijuana Enforcement,” by James M. Cole, August 29, 2013, Retrieved from <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.



cornerstones of Denver’s approach to cannabis legalization (M. Duplechian, personal communication, March 21, 2018). The current federal administration has indicated that the federal government no longer stands behind the Cole Memo (Sessions, 2018), but the implications of this statement are yet to be seen.

## FACTS OF THE CASE

### *Cannabis Retail Policies*

Though cannabis retail was legalized through a ballot initiative, the bill was drafted to allow individual cities, including the City of Denver, to have control over certain aspects of cannabis-related establishments’ operations. For instance, when deciding where cannabis retailers could set up shop, the City opted to create new definitions in its zoning ordinance to state which land uses permit marijuana-related activities (J. Jennings Golich, personal communication, April 2, 2018). As it stands, cannabis retailers are permitted in any zoning district where other retail uses are permitted.

However, cannabis retailers are subject to further restrictions under the licensing program: proximity restrictions prevent them from setting up within one thousand feet of schools, daycares, drug and alcohol treatment facilities, or other cannabis retailers. The license also regulates the manner in which retailers operate including hours of operation, mandatory identification checks at the entrance, signage restrictions, and advertising restrictions.

The urban form in commercial areas is not directly impacted since “street level active use requirements ... are applied equally to marijuana-related uses as to other similar buildings and allowed uses,” (J. Jennings Golich, personal communication, April 2, 2018). Still, cannabis products cannot be visible from the street, even in areas where businesses are required to follow street level active use requirements (i.e. windows). In these cases, retailers must come up with creative solutions to have an active storefront without displaying cannabis in their windows

(M. Duplechian, personal communication, March 21, 2018). Lastly, many marijuana businesses locate in industrial areas, where proximity conflicts are less likely. These are also the only areas where cultivation and extraction are permitted (J. Jennings Golich, personal communication, April 2, 2018).

### *Public Consumption Policies*

Previous to Initiative-300 being approved in 2016, cannabis consumption was not permitted in the public realm, including streets, parks, restaurants, bars, and cafes. On private residential property, it was up to land owners to decide whether cannabis consumption would be allowed, leaving tenants to the whim of landlords. Tourists, who by nature do not own property in Denver, were also left without legal options to consume cannabis even though they could legally purchase it.

With Initiative-300, these gaps are closed with so-called social consumption; licensed businesses enable tourists and local renters to legally consume cannabis in a public social setting like a café. Still, existing indoor smoking bans remain in effect, as shown in Figure 3, so smoking cannabis is only permitted outside the establishment (i.e. patios). Alternatively, cannabis can be consumed indoors in products such as oils, baked goods, or as vape. Further, cannabis consumption is still not permitted on government property including streets, parks, and civic buildings. Social consumption establishments cannot serve both alcohol and cannabis, must be clearly identified with a standardized sign, are subject to the same proximity restrictions as retailers, and must develop waste and odor control plans (M. Duplechian, personal communication, March 21, 2018).

Lastly, unlike cannabis retail which is a permitted use, social consumption is not a defined use in the zoning ordinance. Even if the underlying business (i.e. café, restaurant, arcade, yoga studio) complies with zoning, a social consumption license will not be granted in residential zones (City of Denver, 2017b, p. 1). In addition, a public hearing is required before obtaining a business license and the business must



Figure 3. Under the Colorado Clean Indoor Air Act, smoking is not permitted indoors, so cannabis consumption in public settings is restricted to products such as edibles, oils, and vape. Reprinted from *Unsplash*, by Connor Limbocker, 2017, Retrieved from <https://unsplash.com/photos/PAunHA1uGPA>.

have support from an eligible neighbourhood organization (M. Duplechian, personal communication, March 21, 2018; City of Denver, 2018a). This allows nearby residents, groups, and land owners to voice their opinions before the business sets up shop.

## OUTCOMES

Pot can positively contribute to placemaking in urban areas by creating or enhancing entertainment districts. Private businesses looking to enter the market can experiment with new business models. For example, a social consumption establishment could partner with local pot producers for an experience akin to a tasting room at a local craft brewery. Social consumption establishments could also offer complementary goods such as food and non-alcoholic beverages.

### Economic Development

The hope is that allowing cannabis retail and social consumption in Denver will increase opportunities for placemaking and economic development – from production to retail to consumption. As of April 3, 2018, the City of Denver reports 169 active licenses for cannabis retail stores, 218 for retail cultivation facilities, 85 for manufacturing infused products, and 5 for test facilities (City of Denver, 2018b). The Coffee Joint, a café, is currently the sole social consumption business in Denver (Sexton, 2018). Altogether, there are

478 active recreational cannabis businesses in operation (medicinal-cannabis businesses are not included in these counts), as shown in Figure 4.

For the twelve-month period from October 2016 to September 2017, the most recent figures available, the City of Denver received approximately \$25.9 million in tax revenue from their 7.15% sales tax on cannabis sales (City of Denver, 2017a), as shown in Figure 5. This represents an estimated \$361.8 million of additional retail sales in the city.



Figure 4. Quantities of recreational-cannabis businesses in Denver. Of the 478 businesses, there are 169 retail storefronts and 1 social consumption storefront. Data source: City of Denver, 2018, Retrieved from <https://www.denvergov.org/opendata/dataset/city-and-county-of-denver-marijuana-number-of-active-licenses>.

## CITY OF DENVER MARIJUANA SALES TAX & LICENSING FEE REVENUES

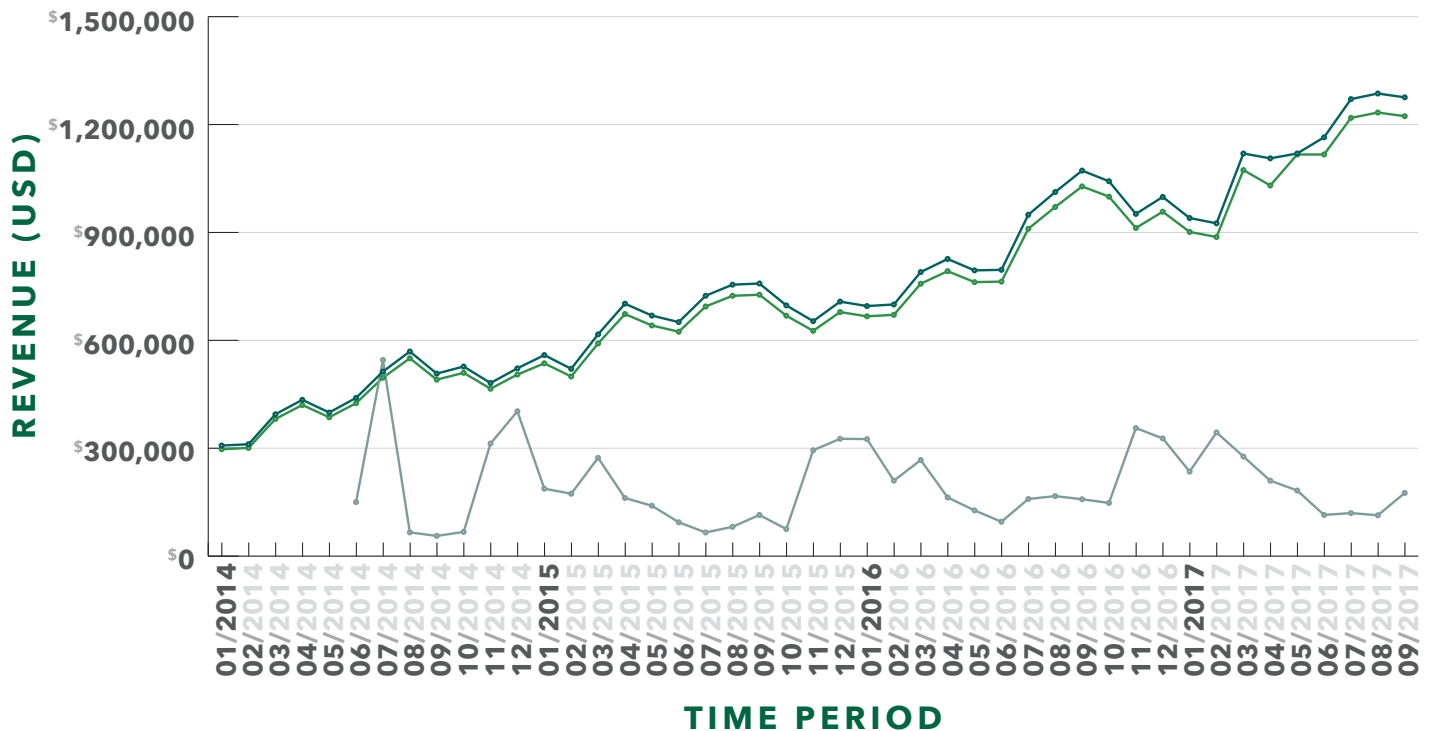


Figure 5. City of Denver marijuana sales tax and licensing fee revenues by month. Data source: City of Denver, 2017, Retrieved from <https://app.powerbigov.us/w?r=eyJrIjoiN2UwMTRkM2EtOWMzMjMS00NjM2LWEwOWEtYzU2YzNiYWYwMDdmIiwidCI6IjM5Zg3YWVzLTU2MTItNDJjMjM0OjIwLWEwOTZkMTJkZjgwMyJ9>.

- Retail Base Sales Tax (3.65%)
- Retail Special Sales Tax (3.5%)
- Retail Licensing Fee

## Tourism

Cannabis retail and social consumption also represent an opportunity for economic development through tourism. In 2015, the year after recreational cannabis retailing was legalized, the city saw an increase in visitors – 16.4 million in all – who spent a total of \$5 billion (Barber, 2016). Approximately 7% of visitors came primarily because they were interested in cannabis (Sealover, 2017). In 2016, total visitors fell as did the percentage of cannabis-seeking visitors (4%), potentially due to waning interest in cannabis and different target demographics for tourism marketing (Sealover, 2017). Even so, the 2015 figures represent approximately \$350 million injected into Denver’s economy from visitors seeking cannabis.

## Placemaking

In cities like Denver, this could be heightened by creating districts that cater to cannabis tourism. The first example of this is the aforementioned Coffee Joint café, located next to a cannabis retailer, as shown in Figure 6. Spatial relationships like this are first steps to creating a cannabis tourism district. The social consumption piece is crucial to the tourism puzzle since visitors might seek out walkable districts where they can purchase pot, consume it, satisfy cravings, socialize, and spend the night.



Figure 6. The Coffee Joint. Denver’s first social consumption business is located next to a cannabis retailer. Reprinted from *The Coffee Joint*, 2018, Retrieved from <https://i1.wp.com/thecoffeejointco.com/wp-content/uploads/2018/04/FullSizeRender-1.jpg>.

In more rural places, social consumption businesses might be more inclined to follow the wine country model: a one-stop-shop in the scenic countryside might offer tourists a chance to sample product straight from the farm while on a retreat from busy city life. For example, the Adagio Bud & Breakfast is a new spin on the traditional bed and breakfast accommodation with spa services and cannabis consumption as shown in Figure 7.

Cannabis-related placemaking and economic development are tied to an integrated policy approach. Though communities in Canada are subject to federal and provincial policy, they do have some say in public consumption, and retail rules. Further, by making cannabis consumption a social experience, people may be incentivized to purchase from licensed reputable businesses rather than black-market connections.



Figure 7. Adagio Bud & Breakfast. Reprinted from *Adagio Bud & Breakfast*, n.d. Retrieved from <http://www.budandbreakfast.com/#packages-1>.

## LESSONS LEARNED

### Successes

City of Denver employees touted their robust regulations, strict enforcement, and collaborative approach while upholding the principles from the Cole Memo.

Denver has seen an estimated \$361.8 million of additional retail sales in the city, \$25.9 million in tax revenues, and \$350 million from cannabis-related tourism. Though Canadian municipalities cannot charge sales taxes, the growth of businesses and retail sales figures demonstrate how the economy has prospered as a result of cannabis retailing. Further, additional provincial sales tax revenues would be reinvested into the province. Cannabis tourism could serve as another draw for international travelers interested in a uniquely Canadian experience.

### Challenges

City of Denver employees noted a learning curve for the administration: though a cannabis establishment might be permitted under the zoning ordinance, it might not be eligible for a license. This means that business owners could go through the process of applying for and receiving a zone use permit only to be denied a license. This has been addressed through an educational campaign for prospective merchants and additional training for administrators (M. Duplechian,



personal communication, March 21, 2018).

City of Denver employees also noted the challenge of dealing with policy that evolved over time. Medical marijuana dispensaries were legal since 2000, but under a different regulatory framework. In 2012, these businesses were prioritized to become recreational cannabis retailers and they were grandfathered in under the new framework. They therefore did not necessarily comply with regulations like proximity restrictions, which confused and upset some members of the public (M. Duplechian, personal communication, March 21, 2018).

**Further Study**

Denver is aware that concentration of cannabis establishments in disadvantaged neighbourhoods could be an issue. Figure 8 shows cannabis retail storefronts and median household income by neighbourhood; more study is needed to understand any concentration of cannabis retail in low-income areas. City employees also noted they have received a wide array of anecdotal feedback from residents but have not conducted formal polling to see how constituents feel about the City’s implementation of the ballot initiatives

(M. Duplechian, personal communication, March 21, 2018). Communities in Canada will be watching closely to see how pot-policy shapes economic growth, tourism, and the urban form in the long-term.

**FINAL THOUGHTS**

The Denver case shows that policy, regulation, administration, public opinion, and political will change over time, but not always in predictable ways. The challenge for policy-makers in Canada is to build a foundational policy that works for the current atmosphere while being adaptable for future change.

Denver represents one of many models that Canadian communities can follow. Some places may be ready and eager to partner with the cannabis industry, while others may prefer a wait-and-see approach. Municipalities and Indigenous communities that embrace the cannabis industry must also reflect on what approach makes the most sense for them for context-appropriate solutions that enhance placemaking and economic development.

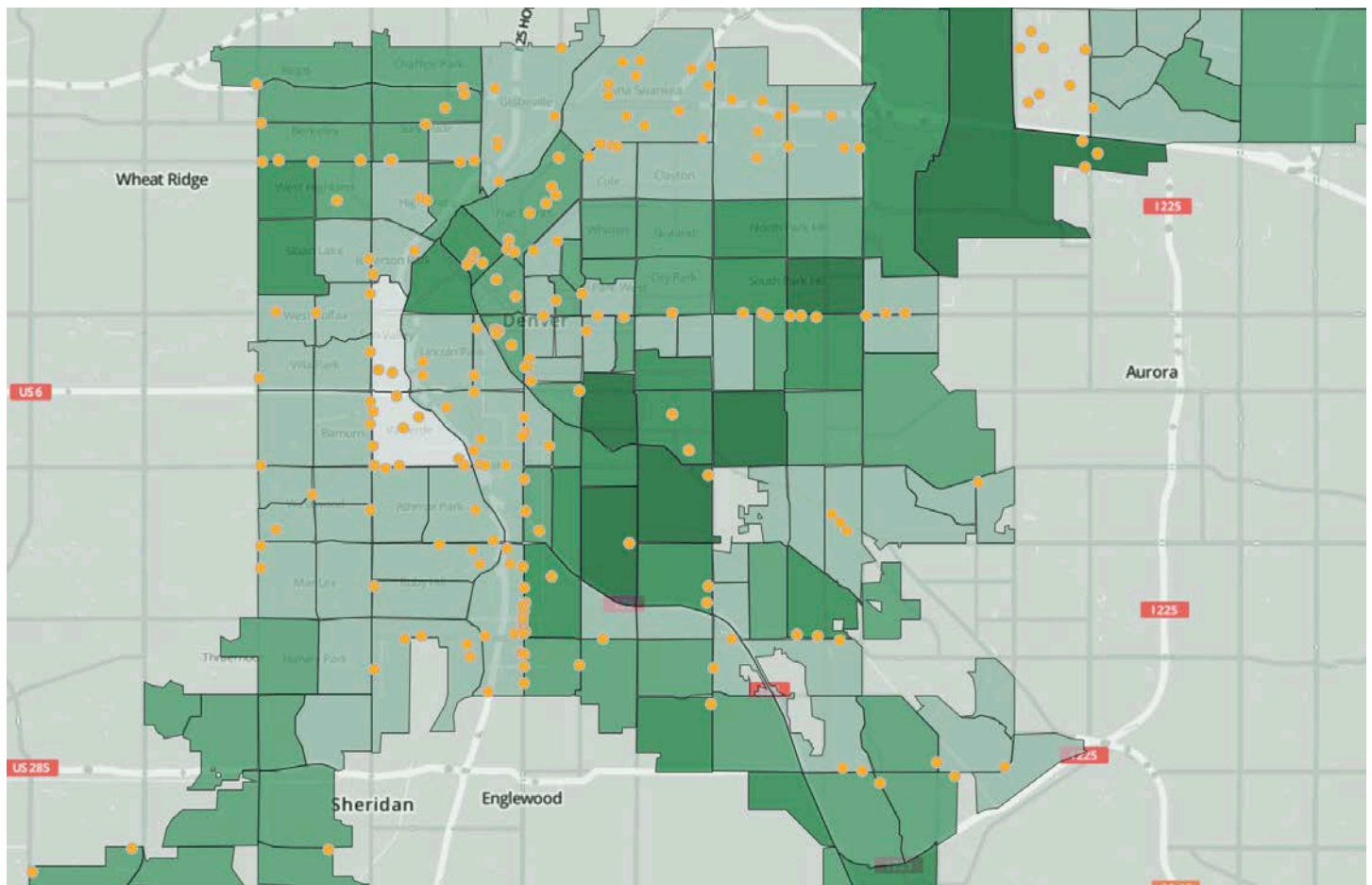


Figure 8. Map of cannabis retail stores and median household income by neighbourhood. Adapted from *The Denver Post*, 2016, Retrieved from <http://extras.denverpost.com/maps/news/marijuana/licensed-facilities/index.html>.

Retail Store



Median Household Income



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