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2021 Edition

Local Control Opt Out Toolkit

For Georgia's
Cities and Counties

Let's Get Clear GA

Partners Advocating Together
To Prevent Marijuana Abuse

SAM Smart
Approaches to
Marijuana
preventing another big tobacco

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Acknowledgement:

Let's Get Clear Georgia is very thankful to SAM (Smart Approaches to Marijuana) and to Dana Stevens for their allowing use of excerpts from their excellent publication,
Using Local Control to Push Back on the Marijuana Industry, (SAM,2019).

Just because it is now legal in Georgia to cultivate marijuana and manufacture and sell "medical" 5% THC Oil products does not necessarily mean these have to be located in your hometown, city or county.

Summary of Toolkit Content in 10 Steps:

- 1. Choose which county or city you want to get to opt out**
- 2. Get partners to work with you**
- 3. Determine if you and your partners can lobby or educate or both**
- 4. Find out if your jurisdiction has already opted in for cultivation or manufacturing**
- 5. Build partner consensus on which activities you want to opt out from.**
- 6. Adapt talking points in Toolkit for your local situation backed up by data that can be included in "one pagers" to give to your partners and local policy makers.**
- 7. Find someone you trust who knows how your city council or county commission works. Ideally this is a sympathetic local policy maker, but could be a knowledgeable community member.**
- 8. Find out what policy makers are sympathetic to your cause: e.g. mayor, commission chair, city council or county commission members.**
- 9. Meet with friendly (if possible) or neutral policymaker using talking points and model ordinances.**
- 10. Find out from sympathetic, knowledgeable person what your next steps should be to get an ordinance passed.**

What if my city or county has already “opted in” to marijuana cultivation or the manufacturing of THC products?

How Cities and Counties Can Opt In to Cultivation and Manufacturing:

Georgia law now specifies that a local jurisdiction (incorporated city, town, or county) must “opt in” via a letter from that local jurisdiction for an “indoor grow” (cultivation) or a THC product manufacturing plant to be located in your jurisdiction .

First you need to find out if your mayor, chair of your city council, county commission chair, or your city council or county commission may already have written such a letter without your knowing it.

However, no such opt in letter is needed for THC product retail outlets (dispensaries) to locate in your jurisdiction.

Whether such an “opt in” letter exists or not, it is vital that local jurisdictions pass an ordinance to “opt out” of cultivation, manufacturing and/or sales to ensure they do not take place in your jurisdiction.

In California more than 80% of cities and counties have used local control measures to prohibit commercialization of marijuana such as retail outlets, cultivation, and manufacturing and/or delivery services in an attempt to protect residents including children and teens from the negative impacts of THC/marijuana.

TIPS:

Learn what policy mechanisms are available in your city, town, or county and who controls them.

Understand the procedures on how local ordinances move through the policy process where you live.

Evaluate the circumstances of your jurisdiction (incorporated town or city or county) including the political-will of elected leaders, level of influence from the business community, and your capacity for resident mobilization.

Opposing/Limiting Commercial Marijuana Activities in your City or County

Local coalitions and public health advocates should start from the position of opposing **all** major commercial marijuana activities that are currently legal in Georgia:

1. Cultivation of marijuana
2. Manufacture of five THC Oil products
3. Sales by "retail outlets" of five "medical" 5% THC Oil products (THC Oil, THC

Talking Points in favor of opting out of cultivation, manufacturing and sales:

1. THC product sales tax revenue will never sufficiently cover the costs associated with the negative impact it creates in your community! We only need to look at the costs of alcohol and tobacco.
<https://learnaboutsam.org/costs>
2. THC Oil "retail outlet" customers have to pay with cash due to Federal law. If you think that makes these medi-pot shops easy targets for crime you are correct. It also makes it difficult to tax and control properly.
https://gazette.com/news/colorado-springs-police-bust-marijuana-shops-recover-million-incash/article_07d86d82-fcc1-11e8-b437-f7db6183a167.html?fbclid=IwAR3_64tfes3yDOKGhizlasNOgEmUI3IXzJzFdpY_mrQu_yLi6lzx18hZLg
3. Having a medi-pot shop next door is bad for community development.
4. Negative impact on youth and neighborhoods: Demographically and socioeconomically vulnerable populations are at higher risks of using or abusing marijuana products like THC oil. Such use, like other substance use behaviors, is influenced by neighborhood physical, economic, and social environmental factors.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4860233/>
5. Permitting commercial marijuana and THC activities does not reduce or eliminate the black market. Foreign cartels are using marijuana legalization to provide cover for illicit activities. *Today California is the epicenter of black market marijuana --activists in California counties such as Calaveras are pushing back, **trying to ban cannabis farms to***

cut off the cartels. They say drug traffickers are importing automatic weapons and using illegal, highly toxic pesticides that are eviscerating forest animals and poisoning freshwater sources. “We’re going down the toilet bowl,” says Calaveras County Sheriff Rick DiBasilio, “and it’s not going to get any better (January, 2018).

<https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>

These are just a few of the many reasons your community will want to completely prohibit any commercialization of marijuana and THC products. You know your community best! Pick your top 3-5 reasons and stick with them. Be concise, strategic, and have supporting documentation that Let’s Get Clear Georgia and SAM can supply.

Model Marijuana Ordinances for Georgia Cities and Counties

The following Commercial Use model ordinance is a complete ban of cultivation, manufacturing, sales, transportation, delivery, storage, distribution, and advertising. If you think your local jurisdiction will not ban all these, then get them to ban as many of them as you can.

Of the 3 activities, **sales** (presence of retail outlets) is thought to be the most harmful to a community.

Commercial Use Ordinance

A. The establishment or operation of any business of commercial marijuana activity is prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

- 1. The cultivation, manufacture, transportation, delivery, storage, distribution, advertising* or sale of marijuana, marijuana products, or marijuana accessories;**

2. The testing of marijuana, marijuana products, or marijuana accessories; or

3. Any other business licensed by the state or other government entity under Georgia Code Title 14. Corporations, Partnerships, and Associations as it may be amended from time to time.

**although advertising is not permitted under current GA law, it is best to be proactive in case the law should change in the future to allow advertising.*

Penalty for Violations

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney/Prosecutor or the District Attorney*. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided under state law - Georgia Code Title 41 – Nuisances: OCGA § 41-2-2 and/or under _____ insert your parallel city or county code name and number here.**

**In Georgia each county or circuit (group of counties) has a district attorney's office, and most if not all cities have their own prosecutor or city attorney.*

***Official Code of GA Annotated, Title 42, Chapter 2, Section 2.*

If a complete ban seems unlikely in your jurisdiction:

If your jurisdiction seems determined to allow retail outlets and/or manufacturing and/or cultivation (because they are convinced it is inevitable, or that regulation is better than the black market, or there is a threat of an industry initiative), you can still advocate for the strictest ordinance possible to protect your community.

Additional key components to advocate for:

1. Buffer Zones around Schools, Churches, etc.

It's a good idea add to the kinds of facilities, called "covered entities," around which there must be a certain "buffer zone" that are currently listed in GA law (see below).

You should include all of the following facilities in your ordinance:

Schools, licensed child-care centers*/day care centers, parks, libraries, drug treatment facilities, churches, playgrounds, youth serving organizations, sports facilities such as football, baseball and soccer fields, and other facilities where youth congregate.

**Licensed child-care centers are important because there are many "licensed inhome" centers and the industry cannot always easily map the centers. This can really help limit the number of eventual locations that can be permitted.*

You may want to *increase* the size of the buffer zones currently in Georgia law:

E.g. ask for a 2,000 foot buffer instead of a 1,000 foot buffer between a medi-pot shop (retail outlet) and a school.

Current Georgia law and buffer zones:

2021 Georgia law allows local governments to make buffer zones smaller!

Although the Hope Act of 2019 established buffer zones for dispensaries, marijuana greenhouses and manufacturing plants, the new law passed in March, 2021 allows local governments to decrease the size of those buffer zones.

This would mean a retail outlet (dispensary) could be located next door to a "covered entity" such as a school or church.

However, this would be in violation of 21 United State Code 860 which specifies there must be a 1,000 foot distance between a dispensary and a school per Drug-free School Zone regulations.

Below are the buffer zone distances specified in the 2019 Georgia law:

“No **dispensing [retail outlet sales] licensee** may operate in any location within a **1,000 foot radius of a covered entity,*** measured from property boundary to property boundary.”

**could be reduced by local government per 2021 GA law (see above)*

“No licensee shall operate in any location, whether for **cultivation, harvesting, and processing of marijuana** or for **processing, manufacturing, packaging, or distributing low THC oil**, within a **3,000 foot radius of a covered entity**, measured from property boundary to property boundary.”

“**Covered entities**” in GA’s current law include the following facilities as long as they were in existence prior to the date of licensure of a licensee by the Georgia Access to Medical Cannabis Commission or the Georgia State Board of Pharmacy.

- a public or private school;
- early care and education program as defined in Code Section 20-1A-2;
- a church, synagogue, or other place of public religious worship

2. Zoning:

You may want to include land-use/zoning regulations which are not included in the Hope Act, Georgia’s new marijuana/THC law passed in 2019):

Also, consider banning residential uses ("uses" not residentially "zoned" - because residential properties are often grandfathered into industrial and commercial zones).

Zones should be restricted to industrial or light industrial, not commercial.

Try to ensure that any resulting commercial marijuana/THC facilities are not clustered in one area (typically the poorest in a community) but are distributed evenly among the city's or county's districts.

Guidance for some 501 c 3s that can Educate but not Lobby

Your organization may not be able to lobby unless you have private funding to do so. Essentially "lobbying" means telling someone how to vote on a certain ordinance that is under consideration by a city council or county commission. "Someone" can mean a city council member or a county commissioner, your organization's membership if you have one, or the general public. The good news is if your organization can't lobby you can still **educate** politicians, your membership and the general public about such things as:

- the risks of marijuana and THC cultivation, manufacturing and sales
- what has happened in other cities and counties have allowed these in their communities in other states
- just how potent products containing 5% THC really are

Also under the first amendment you still have the right to lobby as an individual. But be sure to do so on your own time, using your personal email address, etc. If you are a government employee it is best to check with your supervisor before attempting to lobby just in case.

For more information the differences between lobbying and education and all that can be done under the heading of policy education please contact Dr. Gregg Raduka at the email address or phone number below.

If you need help . . .

**For assistance in Georgia please contact
Gregg Raduka, Ph.D., LPC, ICPS, Executive Director of Let's Get Clear
at admin@letsgetclear.org or call him at 770) 592-7238.**

**For assistance in other states
please contact Dana Stevens with SAM at dana.stevens@eccasa.org
or call her at 760) 317-6716.**

**Ms. Stevens is also the Executive Director of Community Action
Service and Advocacy (CASA) in La Mesa, CA.**



Some words of wisdom from
SAM:



**Marijuana industry promoters usually dangle the
money the industry will bring to a city or county
as the golden ticket to solve all the problems.**

We know this is not true for a number of reasons:

- 1) It costs much more to regulate marijuana and maintain public health and safety than is ever generated in tax revenue. After adding in the social costs, a local community could spend \$4.50 for every \$1 of tax revenue. Find out the money spent on alcohol/tobacco and use those numbers to educate your elected officials and voters.
- 2) The industry is fighting against the very taxes they claim to want. Once marijuana is legal with its promise of big money, the industry switches its argument and fights against taxes with claims of the black market, sick patients and equity and access. So the money doesn't seem to materialize.

<https://www.nbcnews.com/news/us-news/foreign-cartels-embracehome-grown-marijuana-pot-legal-states-n875666>

- 3) Often city requirements mean taxes must be approved by voters. Sometimes ordinances or initiatives are passed allowing commercial marijuana facilities with no tax

provisions at all—meaning the municipality has all the responsibilities and expenses of the industry with no tax income at all to offset the expenses.

Although we do not promote the use of the term “medical marijuana” we recognize that the marijuana industry uses this term. A **major lesson learned** is that marijuana for medicinal use is being used as a ruse to crack the door open to full commercialization/ legalization.

The other thing to know is that the State Supreme Court in California has upheld a jurisdiction's authority to completely

ban medical marijuana "dispensaries" (retail outlets).

We suggest using alternative language for these, such as THC retail outlets. (Please see Other Words that Matter section of this document for more about semantics.) Don't be intimidated by the threat of a lawsuit. The law is on your side.

<http://www.cacities.org/Top/News/News-Articles/2013/May/Supreme-Court-Upholds-City-of-Riverside'sMedical> *The Court held that neither the state's Compassionate Use Act nor the Medical Marijuana Program limit a city or county from regulating the use of land, and cities and counties retained the authority to provide that medical marijuana dispensaries are not permitted to operate within their borders - See more at:* <http://www.cacities.org/Top/News/News-Articles/2013/May/Supreme-Court-Upholds-City-of-Riverside'sMedical#sthash.mnJWYSjK.dpuf>

In California we heard over and over that the medical marijuana industry just wanted regulations. “Medical marijuana” retailers got regulations at the state level and before they could be fully implemented, those regulations were scrapped.

<http://www.cacities.org/Top/News/News-Articles/2017/August/MedicalMarijuana-Regulations-Withdrawn-by-State>

Other Words that Matter:

Marijuana was always marijuana until the great work of preventionists across the country gave it a negative connotation. Suddenly the marijuana industry rebranded itself as the "*cannabis industry*." We encourage the use of the word "marijuana" rather than cannabis. It is how we differentiate ourselves from industry followers.

"*Recommendation*" or "*certification*" is the proper term to use with "medical marijuana," not "prescription." This is because it is not an FDA-approved medication, doctors cannot prescribe the drug, though some may recommend its use.