



Cannabis Business Recommendations

Committee of the Whole

June 16, 2020

City Commission Questions



- At the February 25, 2020 City Commission Committee of the Whole, City Commissioners asked questions that focused on the following:
 - Equity and Ownership
 - Sensitive Use and Waivers
 - Zoning Process
 - Other
- Answers to these questions have been provided in a memorandum to the City Commission

Background



- 2008: Michigan Medical Marihuana Act
- 2016: Medical Marihuana Facilities Licensing Act
- 2018: Michigan Regulation and Taxation of Marijuana Act (MRTMA)
- April 2019: City began accepting/processing medical cannabis applications
- October 8, 2019: Grand Rapids City Commission decided to allow recreational cannabis facilities on a deferred timeline
- November 1, 2019: State of Michigan began accepting recreational cannabis applications

Background



- February 25, 2020:
 - Planning Commission proposed an amendment to the Zoning Ordinance to City Commission
 - City Commission had a robust discussion and did not set a public hearing on the proposed zoning amendments
- March 17, 2020:
 - City Commission approved a six-month period, between April 20th and October 20th, to be more intentional about a social equity program for cannabis facilities

Cannabis or Marijuana?



- Cannabis
 - The scientific name for the plant
 - Used in social equity programs to remove historical stigma and negative connotations
- Marijuana
 - A term for cannabis of international origin
 - Has historically stigmatized Brown and Black communities
 - Introduced in the United States in the 1930's
 - Marihuana Tax Act of 1937
 - Used in legal and zoning frameworks

Cannabis Justice Work Group

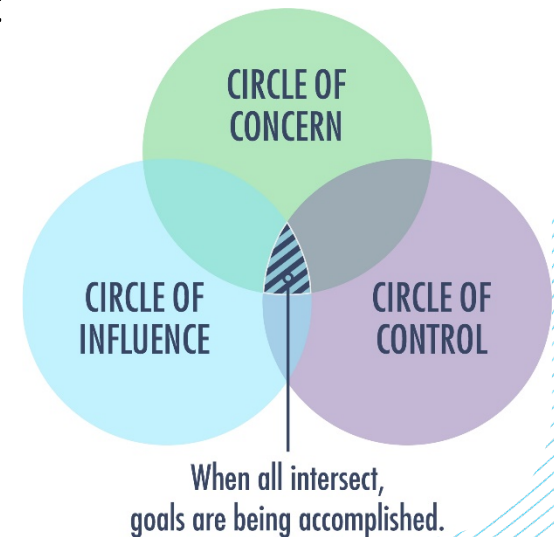


- Created in March 2020
- An interdepartmental task force:
 - Deputy City Manager Eric DeLong
 - Planning: Kristin Turkelson, Louis Canfield, Al Romero-Gibu
 - Law: Anita Hitchcock, Amber Beebe, Kristen Rewa, Joy Fossel
 - Equity and Engagement: Stacy Stout, Ciarra Adkins, Alvin Hills IV
 - Oversight and Public Accountability: Brandon Davis
 - Economic Development: Jonathan Klooster

Policymaking Framework



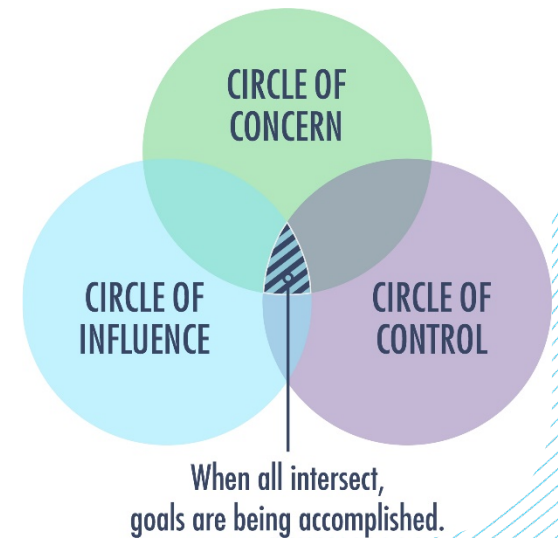
- **Circle of Concern:** This circle represents things that the City would like to accomplish but has no direct (legal) control or direct influence over.
- **Circle of Influence:** In this circle, the City does not have direct control but has influence over matters within it. Much of the work that would be handled by the nonprofit would fall into this realm. The City would be creating the nonprofit so that more of the matters that fall within the circle of concern can be addressed while maintaining some sort of influence over its goals and objectives.
- **Circle of Control:** In this circle, the City has control over the matter and the means by which it is accomplished. Most matters in this circle fall under the City's regulatory power. Zoning would be an example of something that the City has control over, with the caveat that the City cannot do anything that the state has not empowered it to do by law.



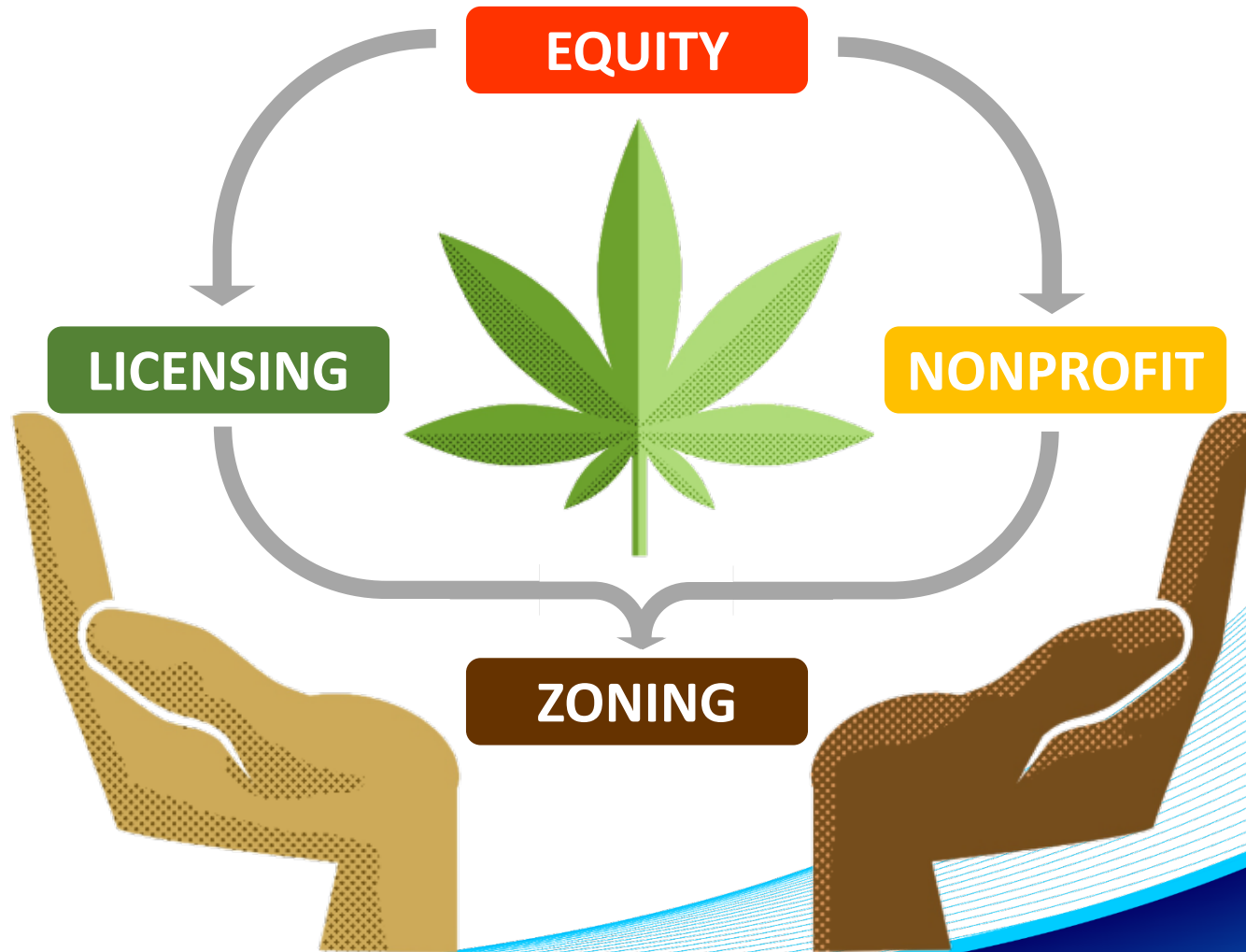
Goals



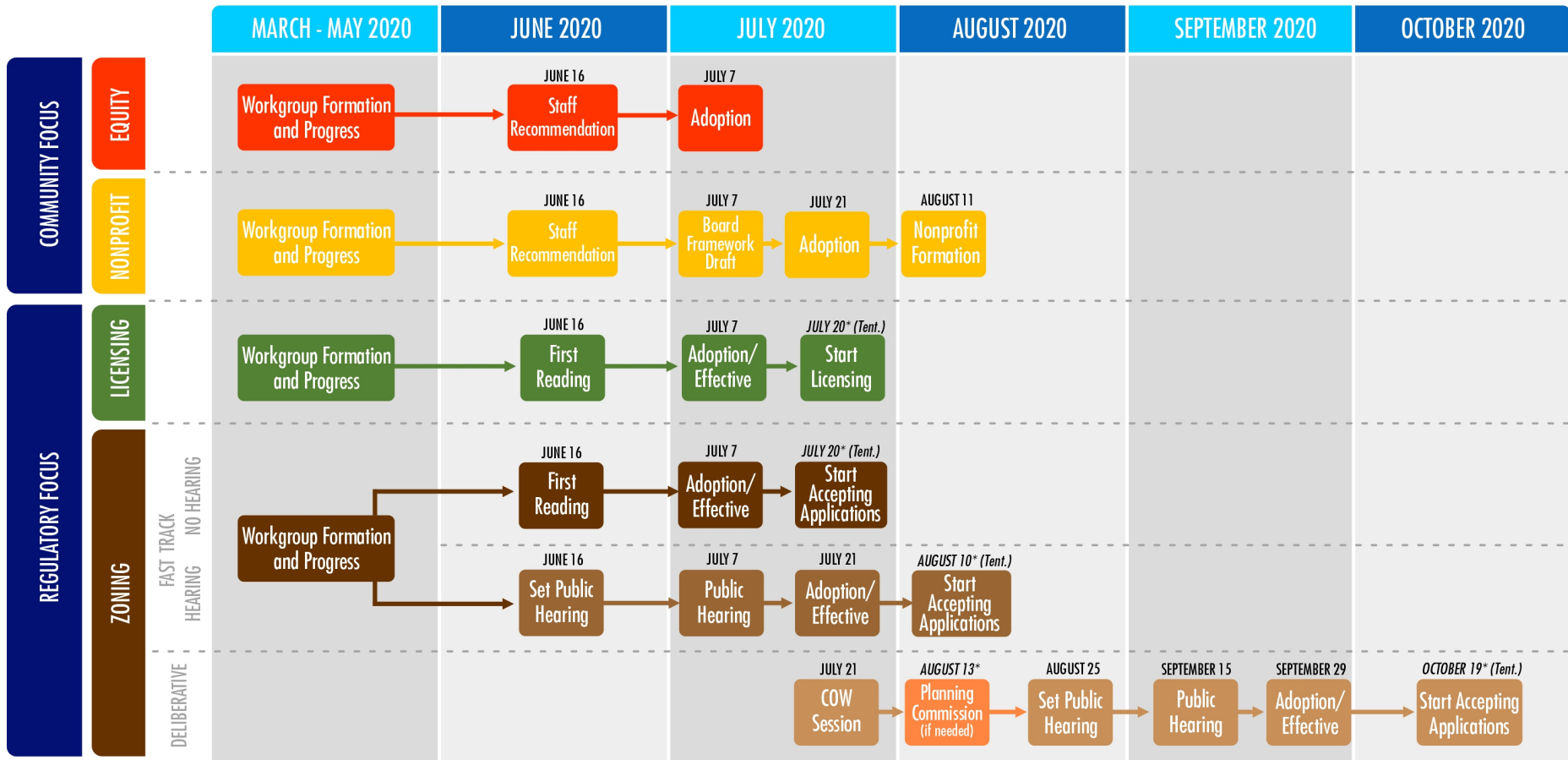
1. Establish social equity expectations and voluntary commitments for applicants for all recreational cannabis license types;
2. Utilize strategies that enhance the growth and development of local, small, and emerging businesses;
3. Supplier diversity;
4. Reduced barriers of entry into the cannabis industry;
5. Increased opportunities within Neighborhoods of Focus; and
6. Address low-hanging fruit now and more complex elements by October 2020



Framework



Proposed Timeline



*Indicates non-City Commission dates

Legal Framework



- Constitutional requirements
 - Due process, takings/exaction, Commerce clause
- Constitutional and statutory limitations on racial preferences
 - Equal Protection Clause
 - Michigan Constitution Article I, Section 26
 - Elliott-Larsen Civil Rights Act
- Limits on use of public funds
 - No loans of credit
 - User fees must be tied to the cost of administration (*Bolt*)
- Local Government Labor Regulatory Limitation Act
 - Limits city regulations on employment matters
 - Wages, Fringe benefits, Hiring process

Legal Framework



- MRTMA requirements
 - Prohibition on “Unreasonably Impracticable” ordinances
 - "Competitive process" - cities that limit the number of facilities that may be licensed must have competitive process intended to select the best applicants to operate within the city.
 - \$5,000 fee limit.
- Marijuana Regulatory Agency expanded State Social Equity Program, effective June 1, 2020:
 - Changed criteria increased number of Disproportionately Impacted Communities (DIC) - Grand Rapids now qualifies
 - more people can qualify as a State Equity Applicant through (1) being residents of DIC *or* (2) having a cannabis conviction *or* (3) being a medical cannabis caregiver
 - Qualifying applicants can participate in the State’s Social Equity Program; fee discounts up to 75%

Legal Framework - Licensing Caps



City	Opt In/out	Moratorium	D.I.C	Caps	Social Equity / local ownership Plan	Lawsuit
Ann Arbor	In	06/16/18 (med)	No	Yes (28 each of Retailers, Microbusiness, Consumption)	No	No
Battle Creek	In	No	Yes (new)	No (not all land use types permitted)	Yes	No
Detroit	out (temp)	07/31/20	Yes	Yes (75 medical only)	Yes	Yes
Flint	In	60d emergency ord.	Yes	No (emergency ord. eliminated caps)		
Jackson	In	No	Yes (new)	Yes (2 Class A or B grow, 3 Provisioning or retail, 2 each for Safety Compliance, Secure Transport and Microbusiness)	Yes	
Kalamazoo	In	No	Yes	No (not all land use types permitted)	Yes	No
Lansing	In	None	No	Yes (28 Retailers, 75 Growers (A,B,C), 4 Microbusiness, 4 Designated Consumption)	No	Yes
Muskegon	In	No	Yes	No (all facilities allowed)	Yes	
Muskegon TWP	In	None	No	Yes (7 Retailers, No Cap on Growers (A, B, and C))	No	Yes
Pontiac	Out	n/a	Yes	n/a	n/a	n/a
Traverse City	Out	n/a	No	n/a	n/a	n/a

Summary of Recommendations



The City Manager and Cannabis Justice Work Group recommend:

1. Adopting a Cannabis Social Equity Policy to guide implementation and outcomes
2. Creating a new nonprofit to assist with the achievement of social equity outcomes
3. Adopting a licensing framework to implement social equity outcomes, assign priority for zoning and licensing consideration and establish renewal criteria
4. Adopting fast-track Zoning Ordinance amendments to allow medical and recreational growers, processors, safety compliance, and secure transporters via administrative review first in the near term
5. Adopting subsequent Zoning Ordinance amendments for implementation by October 20, 2020, for recreational retailers, microbusinesses and other cannabis uses as part of the Deliberative Approach
6. Rescinding City Commission Policy 900-57 regarding park waivers and relying on Planning Commission determinations for Parks; and
7. Adopting subsequent Zoning Ordinance amendments by October 20, 2020, to address separation distances, waivers and sensitive uses and waivers as part of the Deliberative Approach.

Recommendation 1: Social Equity



City Administered Policy

Equity Applicant

Criteria meant to promote and encourage participation in the cannabis industry by people from communities that have been disproportionately impacted by cannabis prohibition and enforcement.

- Eligible cannabis conviction
- Income thresholds
- Experienced negative housing consequences due to War on Drugs
- Experienced negative economic impact due to War on Drugs (e.g. in business, employment, education)

Application Advancing Equity

Participation in the *Cannabis Social Program* in one of the following areas:

- Local ownership, cannabis business or real estate
- Workforce diversity
- Supplier diversity
- Business development - Incubator
- Community Investment Fund

Recommendation 2: Nonprofit



Home Rule City Act (MCL 117.4(o)) allows the city to form a nonprofit corporation under the Nonprofit Corporation Act if there is a "public purpose."

Why form a nonprofit? Equity serves a Public Purpose. A nonprofit can perform many of the activities that the city cannot due to its restrictions on use of public funds, budgeting concerns, and relative inexperience in execution of equitable initiatives. A nonprofit would be more flexible: executing equity related initiatives, collaborating with outside private entities that support equity, programming, raising revenue and spending, providing grants and micro-loans, and enforcing contractual requirements.

Sample desired initiatives or outcomes:

- Job Creation
- Local Ownership
- Minority Contracting Opportunities
- Business Incubators/Entrepreneurship Training Opportunities
- Social Equity Applicant Opportunities
- Education on addictive substances
- Money to Neighborhoods of Focus
- Minority Business Enterprises
- Management Diversity
- Supplier Diversity
- Diverse Workforce/Employee Diversity
- Lower Barriers for Individuals with Criminal Records Related to Cannabis
- Grants and Loan Opportunities
- Collaboration with other nonprofits to execute some programming

Recommendation 2: Nonprofit



City Administered	Nonprofit Administered
Voluntary Incentives	Incentive Requirements
Race Neutral	Geographic Focus
Local Ownership	Local Ownership
Real-estate Ownership	Real-estate Ownership
Supplier Diversity	Supplier Diversity
Workforce Diversity	Workforce Diversity
License Renewals/Various Intervals	License Renewals/Various Intervals
Voluntary Investment in Community Fund	Community Investment Fund + Administration
	Cannabis & Non-Cannabis Business Incubator
	Distribute loans and grants
	Receive Equity Champion Certification
	Wages Recommendations

Recommendation 2: Nonprofit



Examples of City formed and/or Affiliated Nonprofits in Grand Rapids

- Uptown Grand Rapids, Inc. - Represents four neighborhood business associations in Southeast GR
- Downtown Grand Rapids, Inc. - Assists in development of GR urban core in working with businesses utilizing public and private investment funds

Example from Our Neighbor to the South

- Kalamazoo Foundation for Excellence - "A unique innovation by the City of Kalamazoo and private donors to address systemic challenges to the prosperity of the City." - An incorporated supporting organization to the City of Kalamazoo. Resident Agent = the City Attorney

Recommendation 3: Licensing



- Mandatory for all cannabis-related businesses
- Vehicle to authorize criteria for equity applicants (EA), framework for applications advancing equity (AAE), and related polices and incentives
- Each application would earn points based on equity commitments, initially used to
 - Assign license applications and administratively reviewed zoning applications to tiers considered during specified windows of time
 - Establish order of consideration of Planning Commission reviewed zoning applications

Recommendation 3: Licensing



- Initial license applications:
 - 50% Fee discount and high priority processing for Equity Applicants
 - Priority processing for Applications Advancing Equity
 - Good for 1 year to establish track record of meeting commitments
- Renewal licenses - multi-year licenses to licensees with established track record of good operation, which includes embedding equity (EA & AAE)
 - 1 year – standard license, meets ordinance minimum
 - 2 year – established operators, meets additional standards
 - 3 year – established operators, meets highest standards
- Beyond the ordinance amendment, a City Commission policy will be proposed to establish the social equity program, and an administrative policy will implement it

Recommendations 4 and 5: Zoning



- “Fast-track” Approach

- Allow medical and recreational growers (GR), processors (PR), safety compliance (SC) and secure transporters (ST) via administrative review.
- Preserve current separation distances
- Preserve waiver process and criteria
- No public comment, specific to the non-retail operations, were made during the 7 public hearings held for approved facilities
- No significant change in the number of eligible parcels (exception: STs in TCC zone and SCs in CC zone)

- Deliberative Approach

- Allow recreational retailers and microbusinesses
- Modify or eliminate sensitive uses
- Modify or eliminate separation distances
- Modify or eliminate waiver process and criteria
- Consider other cannabis uses

Recommendations 4 and 5: Zoning



- Can we include adult-use retailers in “fast-track” Ordinance?
 - Planning Commission (PC) provided ZO recommendations to permit cannabis Retailers so the City Commission has ability to consider Retailers
 - CJWG does not recommend moving forward with cannabis Retailers until deliberative track because:
 - Use should be a SLU as current land use approvals were explicitly granted for a medical provisioning center and significant public interest
 - Need to resolve other land use considerations – sensitive uses, separation distance requirements and waiver process
 - 6 approved provisioning centers required waivers

Recommendations 6 and 7: Waivers



- Separation distances are required between defined sensitive uses and certain medical cannabis facilities. The Planning Commission has the authority to approve a waiver between certain sensitive use separation distances and cannabis facilities (Section 5.9.19(E)(2) of Article 9, CH 61, Title V).
- General concerns have been expressed about the current waiver criteria and the application of that criteria by the Planning Commission
- City staff recommends a two-step process to address concerns

Recommendations 6 and 7: Waivers



Step 1 (Fast-Track Approach)

- Leave sensitive use waiver process and criteria as-is until deliberative approach
 - *None of the existing non-retail medical cannabis facilities required waivers, so leaving the waiver process and criteria as-is will not prevent approved medical facilities to convert to recreational*
- Exception: rescind City Commission Park Waiver Policy (No. 900-57) by resolution
- Continue to rely on Planning Commission Special Land Use review
- The last medical application in the queue was considered by the Planning Commission on 6/11

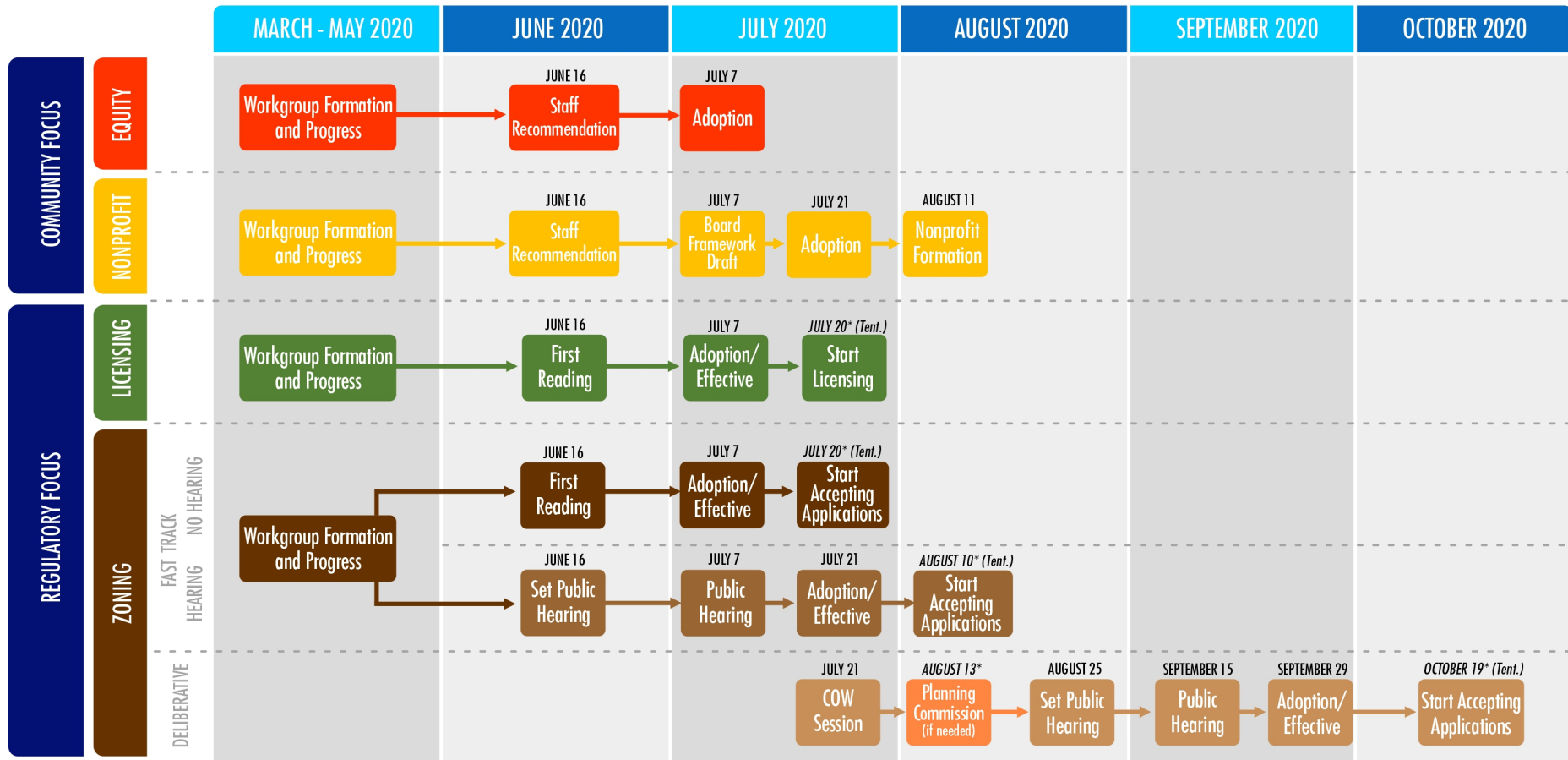
Recommendations 6 and 7: Waivers



Step 2 (Deliberative Approach)

- Eliminate or modify sensitive use waiver process and criteria in deliberative phase (*requires Zoning Ordinance amendment*)
 - Eliminating waivers would result in a required 1000' separation between most cannabis facilities and public parks, religious institutions, substance use disorder facilities, residential zone districts, schools and childcare facilities
 - *If waivers are eliminated, we should consider whether approved medical facility waivers can “transfer” to allow facility to convert to a recreational facility*
 - *If waivers are eliminated, the effective date should be set to a date that will not affect current applicants or existing land use rights*
 - Modifications to the waiver criteria were recommended by the Planning Commission

Proposed Timeline



*Indicates non-City Commission dates

Questions?

