

The Carmel Pine Cone

Growing with the cannabis industry in Monterey County

By ELAINE HESSER

THE 2019 cannabis report published by Monterey County shows that its crop value was roughly \$450 million.

To put that in perspective, if it were included along with the county's other big crops — leaf lettuce, strawberries, head lettuce, broccoli and cauliflower — it would knock cauliflower, at \$212 million, right out of the top five.

According to the same report, the county's tax revenues from cannabis have grown from \$5.5 million in the 2017-2018 fiscal year to a projected \$16 million for the fiscal year ending in 2020. That doesn't even include retail sales. And all of that growing, harvesting and selling is regulated, which means that Carmel attorney Jennifer Rosenthal stays quite busy.

Rosenthal, daughter of land use attorney Richard Rosenthal, said she learned a lot from her father's practice but was more drawn to criminal law. After graduating from Monterey College of Law, Rosenthal said she was fortunate to learn from the late Richard Rosen of Carmel Valley, who served on the committee for the Nation-

al Organization for Reform of Marijuana Law.

Rosenthal said that cannabis law seemed like a good combination of her land use knowledge and criminal defense skills. Talking with her is a little like getting information through a fire hose, as she recalls dates, facts and figures with remarkable ease.

Multiple regulators

In addition to her practice, Rosenthal is a founding member of the Monterey Cannabis Industry Association and serves as vice president of its board of directors. (Mayor Dave Potter is president.) The association's mission is "to advocate and promote all aspects of the cannabis and hemp industry in Monterey County."

To that end, it helps businesses that grow and sell cannabis to navigate the constantly evolving rules and regulations around the industry.

Rosenthal said that three state entities are responsible for most of the rules that govern cannabis cultivation and sales —

the Bureau of Cannabis Control, the state's Department of Food and Agriculture and the California Department of Public Health. But that's not where it ends. Bob Roach, the industry association's executive director, added that the state Fish and Wildlife department, water boards, tax collectors and even the California Coastal Commission can have a say, as well as local governments.

"All of those state agencies defer to local authorities, cities or jurisdictions, which can regulate cannabis through land use and zoning laws," Rosenthal said. The county — including code enforcement, fire inspectors, the planning department, health department and agricultural commission — has its own layers of rules about where and how marijuana can be grown and sold, as do municipalities. And of course, cannabis is still illegal under federal law, where it is classified as a Schedule I controlled substance, along with LSD and heroin.

Seed to sale

Regulatory agencies can — and do — show up in-person on short notice to see how well businesses are following the rules, which Rosenthal described as "nuanced and evolving," meaning that well meaning business people can still easily make mistakes.

Some of the many areas that are covered include the use of pesticides, air quality control measures, certified scales, weights and measures, and something called "track and trace," which Rosenthal said follows plants from seed to sale.

When it comes to making cannabis gummies, chocolates or other edibles, the California Department of Health weighs in

on food safety.

And all along the way, there are rules for labs which test the products' purity and potency, and for marketing. For example, anything advertised as hemp can have only trace amounts of THC, the psychoactive ingredient in marijuana that makes people high.



Jennifer Rosenthal

Like wines

Rosenthal said that during the Covid-19 shutdowns, the cannabis industry was fortunate to have been deemed essential.

"It kept so many people employed," she said. "I have a couple of farms with more than 100 people a day working at harvest." Cannabis retailers were allowed to remain open and many expanded their services to include delivery.

Overall, she said, the rules for cannabis are "comparable to running a liquor store or making wine," but stricter and more complicated.

The state's legalization of cannabis raised other legal issues as well, include how to determine if someone is driving under the drug's influence, limits on how much someone can grow for personal use, what restrictions landlords can place on cannabis use, and where and how one can imbibe, to name a few.

All of which means that Rosenthal and others who practice cannabis law will have plenty to do for the foreseeable future.

In 2019, the value of cannabis production in Monterey County exceeded the value of many other crops, and reaped tax dollars in the millions.

