



City of Ann Arbor Planning Services

Memorandum

TO: Mayor and City Council

THROUGH: Howard S. Lazarus, City Administrator

FROM: Brett Lenart, Planning Manager
Derek Delacourt, Community Services Administrator
Kevin McDonald, Deputy City Attorney

RE: Michigan Regulation and Taxation of Marihuana Act - MRTMA

DATE: August 8, 2019

In November of 2018, City of Ann Arbor voters approved State Ballot Proposal 18-1 with 78% of voters voting in support of the Michigan Regulation and Taxation of Marihuana Act ("MRTMA"). This Act generally legalizes marijuana, and provides for "marijuana establishments" which both match and differ at times with facilities that provide medical marijuana to patients. For example, while growers, processors, and retailers, will operate similarly to growers, processors and provisioning centers of medical marijuana, the MRTMA introduces new license types, including Designated Consumption Establishments, where adults, 21 years of age and older, can consume marijuana on the premises, and Temporary Marijuana Events, which allows temporary sales or consumptions events under certain conditions. In accordance with strong support of electors in the City, City staff is working concurrently on ordinance amendments for the permitting and regulation of recreational marijuana in the City of Ann Arbor as follows:

UDC Amendments to permit MRTMA Uses (Chapter 55)

The State of Michigan published Emergency Rules that provide an overview and framework for how municipalities may regulate MRTMA facilities on July 3rd. The intention of the rules from Marijuana Regulatory Agency Director Andrew Brisbo was in part to "...provide municipalities and prospective licensees with the information they need to decide how they want to participate in this new industry." Upon the release of these rules, staff has begun analysis, conducted one discussion with the Planning Commission Ordinance Revisions Committee, and has scheduled further consideration of prospective ordinance amendments at the August 13th Working Session, and scheduled an initial public hearing on August 20th. Staff anticipates that this Ordinance will be forwarded to City Council in October.

Medical Marijuana Facilities Amendments (Chapter 96)

Chapter 96 (Medical Marijuana Facilities) which provides for a local permitting process will require amendments as well, and the City Attorney's Office will be working concurrently with the UDC Amendment process on these related changes. This Ordinance will be where any overall numeric licensing caps would be incorporated, if desired by City Council.

Implementation/Opt Out Ordinance

The MRTMA includes the opposite implementation framework of the Medical Marijuana Facilities Act. With medical marijuana, the City had to "opt in" to allow such uses. For the MRTMA, the opposite holds true. Unless the City "opts out" of recreational marijuana facilities, the State will begin to accept license applications on November 1st, at which time applicants

may be able to receive licenses to operate recreational marijuana facilities in any municipality that has not specifically opted out without any local control, including control over facility placement.

Given the required process for amending the Unified Development Code (“UDC”), including the timing of notices, public hearings, and publication, it is highly unlikely that the amendments, and the corresponding licensing amendments, will be complete by the first Council meeting in October. Based on effective dates and publication timing, this will result in a window in which the State would accept license applications and the City would not have an adopted regulatory framework by which to control the operation of such businesses in the City. Thus, the City Attorney’s Office will be preparing an ordinance to opt out of recreational marijuana facilities for Council consideration.

This ordinance is intended to be in place for a short term until the amended UDC and permitting ordinance that govern recreational marijuana uses are in place. We anticipate that repeal of the opt out ordinance will be incorporated into the adoption of the UDC and Chapter 96 amendments. While it may seem illogical to enact the opt out ordinance with the intention of repeal soon after, it will provide reasonable time for the City to ensure that any proposed MRTMA regulations are done and adopted as desired, without an unnecessarily compressed timeline.

Please contact any of the listed staff for additional information or questions.

CC: John Fournier, Assistant City Administrator
Kristen Larcom, Senior Assistant City Attorney
Jackie Beaudry, City Clerk
Planning Commission