



You've Opted-In; Now What?

Michigan Municipal League
Capital Conference
March 20, 2018
Lansing, MI

1. What's In Your Ordinances?
2. Award of Local Permits & Renewals, or
“Who Picks the Winners?”
3. “Show Me the Money!!!”

Scope of Presentation

Public Act 281 Medical Marihuana Facilities Licensing Act or MMFLA Creates 5 types of Medical Marihuana Facilities:

Grower

Class A – 500 plants

Class B – 1000 plants

Class C – 1500 plants

Processor: extracts resin from plant /creates marihuana-infused products

Secure Transporter: transports marihuana & cash between facilities; may also store marihuana

Safety Compliance Facility: tests samples of marihuana for contaminants and its active ingredients

Provisioning Center: sells marihuana/marihuana infused products only to registered patients and caregivers

Overview of Public Act 281

- Affirmatively prohibit butane extraction and perhaps other types of similar methods such as naphtha, ethanol, propane in residences and residential districts.
- Olive Oil and Coconut Oil are also used in extraction.
- *York Charter Township v. Miller*, #335344 (January 18, 2018) holds that township could not enforce ordinance prohibiting outdoor growing of marihuana by patients and caregivers.

Home Occupation/MMMA Regulations

- Growers limited to industrial, agricultural and unzoned areas by statute [MCL 333.27501(7)]
- Per LARA Emergency Rule 22 Class C-1500 plant Grower licensee may “stack”
- Per LARA Emergency Rule 25 outdoor cultivation permitted by Grower (must adjacent to a building, opaque fencing or barrier, plants can’t exceed height of fence)

- Processors likely amenable to industrial and manufacturing zones
- Per Emergency Rule 24, Growers, Processors & Provisioning Centers may co-locate, if allowed to do so by local ordinance.
- Secure Transporters like any other transportation/armored truck/delivery service (Emergency Rule 25, may drive through any municipality)
- Safety Compliance Centers like other laboratory/office uses

Zoning of Medical Marijuana Facilities

• Provisioning Centers:

Are they like a retail pharmacy or are they like a package liquor party store? Does it matter? Should they be set apart from such uses?

Should they be treated like an adult business?

Are there “deleterious secondary effects”?

Should they be clustered or dispersed?

Should other uses be protected, such as churches, schools, etc

Drug Free Zones →

Zoning of Medical Marijuana Facilities

• Provisioning Centers: Drug Free Zones

21 USC 860: 1000 feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.

MCL 333.7410: within 1,000 feet of school property or a library.

School: a building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses.

Library: library that is established by the state; a county, city, township, village, school district, or other local unit of government or authority or combination of local units of government and authorities; a community college district; a college or university; or any private library open to the public.

- Zoning Issues
- Location by right or special/conditional use?
- Special use can be subject to question and litigation regarding sufficiency of evidence and whether the exercise of judgment considered matter outside the scope of the conditions under consideration

Who gets a License? Who chooses? Concerns?

1. All types of facilities, or only some?
2. Hard cap or “soft cap” on number of facilities?
3. How do you choose? Evaluative Process/Free Market OR just defer to the State Licensing Board
4. Should ordinance address concerns about security, fire suppression, water use, electric use, wastewater treatment, disposal of hazardous waste, leftover plant or processed material, odor?
5. Other “public welfare” issues: local unemployment?

Exercise of Police Power/Permitting Issues

Municipal Response: Census of Patients/Caregivers

<u>County</u>	<u>Patients (2016-17)</u>	<u>Caregivers (2016-17)</u>	<u>Per 1000</u>
<u>population(2016)</u>			
Kalamazoo	4081→ 5101	758→ 896	15.6
Allegan	2508→ 2945	521→ 562	21.7
Barry	1169→ 1474	244→ 300	19.6
Berrien	2914→ 4057	660→ 793	18.9
Branch	1076→ 1334	215→ 236	24.8
Calhoun	3164→ 3821	664→ 726	23.5
Cass	977→ 1340	189→ 244	18.9
Kent	8754→ 10654	1366→ 1544	13.6
Ottawa	3341→ 4150	499→ 549	11.8
St. Joseph	1136→ 1467	223→ 272	18.7
Van Buren	1988→ 2371	428→ 494	26.4

Sources:

State of Michigan *Medical Marihuana Act Statistical Report for FY 2016* Issued December 22, 2016

State of Michigan *Medical Marihuana Act Statistical Report for FY 2017* Issued November 28, 2017

Size of Market

Speculative State/City Revenue Projections

	Scenario 1	Scenario 2
Assumed Gross Retail Sales	\$650,000,000	\$1,000,000,000
3% Excise Tax	\$ 19,500,000	\$30,000,000
25% Cities, Villages & Townships	\$ 4,875,000	\$7,500,000
1% Share (1/100)	\$ 48,750	\$75,000
.5% Share (1/200)	\$ 24,375	\$37,500

Caveat: not more than \$5000 per licensee to defray administrative & enforcement costs

How much \$\$\$

Municipal Response: Next Steps

- ❖ 2018 Ballot Question to Legalize Recreational Marijuana
 - ❖ Initiative Question requires 252,523 valid signatures
- ❖ As reported by MLive on August 6, 2017, proposal would:
 - ❖ Permit possession of 2.5 ounces on one's person (Most states permit 1 oz. on person)
 - ❖ Permit additional 10 ounces in one's home
 - ❖ By some estimates, this would be enough to roll over 1000 joints
- ❖ Legal landscape may drastically change in 2 years; Stay tuned!

Local Options/Response

Municipal Response: Next Steps

- ❖ Consult your municipal attorney
- ❖ Provide information to the Planning Commission & City Council in advance
- ❖ Hold public outreach meetings regarding the proposed ordinances to receive citizen feedback
- ❖ Incorporate feedback into ordinances and finalize language
- ❖ Get out in front of the issue
- ❖ Be aware of the possibility of ordinance/charter initiatives
- ❖ Opponents may compare local regulation of marijuana akin to that of alcohol or adult businesses (MMFLA does not change MMMA re: registered caregiver-patient relationship, nor does it “legalize” marijuana, or eliminate the black market)
- ❖ Industry will frame the issue as one of altruism; it is providing much needed medicine to underserved patients

Local Options/Response

“There's always cash when we sell drugs. That's why we sell drugs.”

--Nancy Botwin (Character from the Showtime series “Weeds”)

According to a August 31, 2017 Wall Street Journal article, the wholesale value of marijuana is \$1614/lb., the retail value is \$4536/lb.

Do the math:

500 plants x 3 grow/harvest cycle per year x \$1600 = \$2.4 million

Questions?