



Community Planning and Development
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Medical Marihuana Public Forum Feedback

July 26, 2017 - 6 to 8:30 PM

July 27, 2017 - 2 to 4:30 PM

City of Kalamazoo Responses to Questions and Comments Received:

GENERAL:

- What is the plan if the State has not accepted any applications from those accepted in Kalamazoo? **Aside from provisioning centers, since the number of local licenses for the other types of medical marihuana facilities is not capped, State acceptance of the City-issued provisional certificate and a local certificate of occupancy is all that is required. In the case of provisioning centers, since they are capped, it is anticipated that more applications than the number of provisioning centers allowed will be drawn so as to create a "spring-loaded" list should the State deny an application.**
- Is there a timeline set? **Not yet.**
- Can someone apply for both caregiver and provisioning center licenses if they are a caregiver? **The lottery for cannabis dispensaries will likely be held first, with any unsuccessful applications being added to the provisioning center lottery.**
- How do you ensure that operations are able to follow through on plans? **Licensees will have six (6) months to get up and running; failure to do so will result in loss of license.**
- Will the ordinance affect personal in-home caregivers? **Not really, as the MMFLA does not address in-home caregivers. If so, how? However, in-home caregivers will have to comply with amendments due to PA 283 of 2016.**
- How will the new crackdown by the Feds on illegal drugs impact the City's draft ordinances? **This is unknown and not ascertainable.**
- Any thoughts on future-proofing the ordinance for the inclusion of recreational use in the future? **Yes, the draft ordinances are being assembled knowing that there is the potential the State may legalize recreational use at some point in the future.**

- Will the City consider working on framing the full recreational use of cannabis? **No, the State has to legalize it first.**
- Will there be a committee for variances or other permitting? **Variances are only available from the Zoning Board of Appeals and are of two types. A use variance requires demonstration by petitioner of “unnecessary hardship”, which under Michigan law is a very stringent standard. A nonuse or dimensional variance requires the demonstration of “practical difficulty” in complying with the required setbacks or other required dimensions.**
- What happens if the State does not come up with any guidelines or rules? **The board will most likely rely on LARA staff. They are consulting with other communities that already have this in place. LARA staff will come up with the regulations that the board will approve.**
- For licenses with on-staff caregiver requirements, how does ownership satisfy requirement? **Assuming this question is about caregiver/patient operation of a cannabis dispensary, such would require the operator/owner to disclose and prove their status.**

APPLICATION SYSTEM:

- What are the restrictions on number of applications a person can submit? **Still need to refine the application period and process; the Clerk can create rules to address the lottery. It will not be any no earlier than November 15, 2017.**
- How many applications can a person turn in? **One type per location/address.**
- How do we address applicants who enter multiple lotteries? **Determine real party in interest.**
- What keeps outsiders from getting numerous licenses? **Until June 30, 2018, applicant must be a Michigan resident for the past 2 years in order to be eligible for a license.**
- Will a committee be set up to review the applications? **City Clerk’s office will review the applications.**
- Does the business need to be set up prior to application? **No, a letter of intent or something similar would be acceptable.**
- Application requirements?
 - o Casualty insurance requirements? **Under review.**
 - o Financial statement disclosure requirements? **Under review.**
- Is there a policy in place to ensure that minorities have equal opportunity for facility licensing? **Lottery approach does this.**

- Would it be more prudent to invoke an application process that would involve unique and non-identifiable applications with a certain percentage appropriated to disadvantaged groups? **Under State law, City can't give preferences based on ethnicity, race or sex.**
- Lottery system weaponizes financial position of applicants and discriminates against financially disadvantaged groups.
- Is the lottery before or after provisional license? **Before.**
- Unique ID should be used for applications instead of names: **Yes, this is what is contemplated, but unlike the law governing registered caregivers and patients, there is no Freedom of Information exception regarding the identity of medical marihuana facility license applicants.**
- A lottery is not suitable for medical standards – people consume cannabis for medicine – it should be produced by competent growers. **This will be an issue for the State Licensing board to determine, not the City.**
- Why is there not something restricting outside residents/caregivers/patients from applying? **See State law, which requires initial licenses be available to Michigan residents until June 30, 2018.**
- How are you ensuring that people are trained and competent to “deem someone (application) complete” **Training of staff for application reviews will be completed well in advance of submission window for lottery.**
- When you have two people that are within the separation distance, how do you decide which facility is approved? **This is under review.**
- In the application, will there be questions about waste/disposal? **Yes, you will need a plan.**
- Will you need to put a particular property into the lottery? **Yes, you have to demonstrate the legal ability to occupy a space.**

GROWER:

- The land requirement is too restrictive (minimum size one acre). **This is under review.**
- Why is there a 500 ft. separation distance between facilities in the manufacturing zone districts? **This is under further review based on comments received.**
- Do growers and processors need to be 500 feet apart? Is it possible to co-locate all mechanical systems, etc.? **No, if a grower/processor operation is under the same ownership (which will require separate licensure for each facility) it does not have to be 500 feet apart. They will be permitted to co-locate and share mechanical systems provided that such meets applicable building codes.**

- What about a grower/transporter in same facility? **No, this is not permitted.**
- What are the restrictions on stacking (grow) licenses? **Not permitted.** Why is the City not allowing the stacking of Class C licenses? **Stacking licenses means within the same facility. An entity could have three separate licenses for three Class C at different locations.**
- Does the amendment to the home occupation provision outlaw all home growing by caregivers, or just butane extraction? **Just butane extraction.**
- Can Class C growers sell to pharma? **This is issue of federal law, but the answer is likely “no”.**
- Are greenhouses going to be allowed? They are enclosed completely. **Currently we only allow greenhouses in Agricultural districts. However, adding greenhouses to the M-1 or M-2 is under discussion; security might be an issue.**
- Can two growers with separate licenses be on the same property as long as they do not share the same building? **No.**
- Will growers be inspected by the City regularly, or will the City rely on the State for inspections? **Facilities will be inspected at least once a year in connection with any renewal of a license. Under the MMFLA, facilities are open to law enforcement inspection at any time.**
- Will growers be able to sell flower directly to dispensaries? **While the product must have been tested by a safety compliance center, sale from grower to provisioning center is permitted under State law.**
- Is there a window to when you can bring plants in? Do you have to start from seed? **The State will need to address this matter. The City is not regulating to this.**
- It is impossible to grow with the current lighting restrictions; what is proposed goes against industry standards. Please consider including ceramic metal halide for lighting; burns cooler and takes less electricity. **This is being reviewed. HPS (High Pressure Sodium) lights also mentioned in feedback received.**

PROCESSOR:

- Why is the processing a one-acre parcel? **This is under review.**
- The land requirement of one acre is too restrictive. Many processors can work in <1000 sq. ft. facilities (see Oregon). **This is under review.**
- Why does the ordinance say that provisioning centers cannot advocate for other uses for marihuana? **This is being reviewed. It is not the intent of the City of Kalamazoo to curb any ability**

to advocate that is protected by the First Amendment; however commercial speech regarding medical marijuana will be regulated consistent with First Amendment jurisprudence.

- Will processor to processor sales be permitted (e.g. processor 1 extracts resin, processor 2 uses resin to make edibles)? **This is an issue that has to be dealt with at the State level.**

SECURE TRANSPORTER:

No specific questions submitted

SAFETY COMPLIANCE FACILITY:

- If a safety compliance facility has already been currently operating in an area that was zoned properly, but then someone opens a church next door, does the safety compliance facility have to move? **No.**

PROVISIONING CENTER/MEDICAL CANNABIS DISPENSARIES:

- Is it possible to have a provisioning center that also sells apothecary items like herbs? **Yes, unless/until State rules are adopted to prevent it. However, State law prohibits the sale of alcohol and tobacco products at a provisioning center.**
- What is the purpose of separating the two different entities, provisioning center and medical cannabis dispensary? **This is due to the voter-initiated City Charter amendment which was approved in 2012 requiring at least three “medical cannabis dispensaries”, operated by one or more registered caregivers and patients, in the City.**
- Please explain the license allowance for the City – how many provisioning centers and how many dispensaries based on the formula? **Seven (7) provisioning centers in total, of which three (3) must be “cannabis dispensaries”. A cannabis dispensary is a type of provisioning center.**
- Provisioning centers vs. dispensaries? **A cannabis dispensary is a type of provisioning center.**
- Will a person be able to apply for both a provisioning center and a dispensary at the same time? **Yes, provided that they are a registered caregiver or registered patient.**
- Provisioning centers should be allowed in any commercial district regardless of zoning category – doesn't the separation distance already do that job? **No, the separation distances do not provide sufficient protection because there are low-intensity commercial district in many neighborhood areas.**
- Do the same setbacks apply to provisioning and caregiver facilities (Medical Cannabis Dispensaries)? **Yes.**

- There are a lot of land uses added with separation distances, what was the motivation for adding all those uses? The original Charter amendment from 2012 states a 500 foot separation distance is required from another dispensary; other separation distances were pulled from the drug-free school zone, banned alcohol sales; and protected uses that the City has currently in the Zoning Ordinance.