Adult Use Marijuana

City of Kalamazoo
Public Participation Input

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February 11, 2020
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A Quick Overview

2008: Voters approve the **Michigan Medical Marihuana Act** (MMMA)
- After ten years issues arising under the MMMA are still being litigated, the most recent being the scope of local municipal zoning authority
- A gap in the MMMA was the absence of any language providing for dispensaries

2016: Legislature enacts **Medical Marihuana Facilities Licensing Act** (MMFLA)
- Created a “seed-to-sale” integrated commercial system
- Municipalities were not required to “opt-in” into system;
- But were granted a large degree of regulatory and licensing authority if they did so

2018: Voters approve the **Michigan Regulation and Taxation of Marihuana Act** (MRTMA)
- Legalized marihuana for persons age 21 and older
- Municipalities are required to “opt-out” of commercialization of adult-use marihuana under MRTMA
- Legalized “industrial hemp”, i.e. CBD products with less than 0.3% THC
Michigan Medical Marihuana Facilities Licensing Act or MMFLA (2016)
Created 5 types of Marihuana Commercial Establishments:

1. **Grower**
   - Class A – 500 plants
   - Class B – 1000 plants
   - Class C – 1500 plants, but stackable*
     * For Class C Grower licenses only, may have more than one in a licensed location

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

3. **Secure Transporter**: transports marihuana & cash between facilities

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

5. **Provisioning Center**: sells marihuana/marihuana-infused products **only** to caregivers and patients registered under the Michigan Medical Marihuana Act (MMMA)
Michigan Regulation and Taxation of Marihuana Act or MRTMA (2018)
Created 6 types of Statutory Marihuana Establishments:

1. **Grower**
   - Class A – 100 plants (vs. 500 plants under MMFLA)
   - Class B – 500 plants (vs. 1000 plants under MMFLA)
   - Class C – 2000 plants (vs. 1500 plants under MMFLA), stackable

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

3. **Secure Transporter**: transports marihuana & cash between facilities

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

5. **Retailer**: sells marihuana/marihuana-infused products **only** to person 21 and older

6. **Microbusiness**: grow up to 150 plants, process, package, and sell marihuana at one location
Michigan Regulation and Taxation of Marihuana Act or MRTMA (2018)
Permits creation of Special Licenses by Administrative Rule:

1. **Excess Marihuana Grower**: issued to licensees holding 5 Class C Adult Use Grower & at least 2 Class C Medical Grower licenses to permit additional marihuana plant grow capacity.

2. **Designated Consumption Establishment**: commercial space for the consumption of marihuana products by persons 21 and older.

3. **Marihuana Event Organizer**: licensee eligible to apply for a temporary marihuana event license

4. **Temporary Marihuana Event**: onsite sale and/or consumption of marihuana products at an authorized location during specified dates
<table>
<thead>
<tr>
<th>License Comparison</th>
<th>Medical</th>
<th>Adult Use</th>
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</thead>
<tbody>
<tr>
<td><strong>Grower</strong></td>
<td>Class A (500)</td>
<td>Class A (100)</td>
</tr>
<tr>
<td></td>
<td>Class B (1000)</td>
<td>Class B (500)</td>
</tr>
<tr>
<td></td>
<td>Class C (1500)</td>
<td>Class C (1000)</td>
</tr>
<tr>
<td><strong>Processor</strong></td>
<td></td>
<td>Processor</td>
</tr>
<tr>
<td><strong>Safety Compliance</strong></td>
<td></td>
<td>Safety Compliance</td>
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<tr>
<td><strong>Secure Transporter</strong></td>
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<tr>
<td><strong>Provisioning Center</strong></td>
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<tr>
<td><strong>Microbusiness (150)</strong></td>
<td></td>
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</tr>
<tr>
<td><strong>Excess Grower</strong></td>
<td></td>
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<tr>
<td><strong>Event Organizer</strong></td>
<td></td>
<td>Event Organizer</td>
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<tr>
<td><strong>Event License</strong></td>
<td></td>
<td>Event License</td>
</tr>
<tr>
<td><strong>Consumption Facility</strong></td>
<td></td>
<td>Consumption Facility</td>
</tr>
</tbody>
</table>

*Blue = Michigan residency required*

*Green = MMFLA license required*
Marihuana Regulatory Agency (MRA) within the Michigan Department of Licensing and Regulatory Affairs (LARA) is given the responsibility of promulgating rules under the MRTMA to fill the statutory gaps “necessary to implement, administer and enforce” the Act.

MRA will grant or deny applications for medical and adult-use licensure.

MRA issued Adult Use Emergency Rules July 3, 2019, which were extended until July 3, 2020 by Governor Whitmer on December 18, 2019.
State Regulation of Commercial Adult Use Marihuana

- Rules set purity, testing, labeling, recording-keeping, and THC level standards
- Rules set security, monitoring, tracking, and transporting standards
- Rules set conditions for the licensure and operation of adult use marihuana establishments
State Regulation of Commercial Adult Use Marihuana

- A prior conviction for a marihuana-related offense does not disqualify a potential applicant unless the conviction was for distribution of a controlled substance to a minor. *MRTMA §8.1(c)*

- However, State may deny license to person with a “pattern of convictions involving dishonesty, theft, or fraud.” *Adult Use Emergency Rule 9 (3)(a)*

In the first 24 months of application for State licensure*:
- Only Michigan residents may receive a Class A Grower or Microbusiness license.
- Only MMFLA (medical marihuana) licensees may receive Class B or Class C Grower, Processor, Secure Transporter, or *Retailer* license.
- For a Safety Compliance Facility, anybody is eligible to apply.

* One year after LARA begins accepting applications, it may accept applications from any applicant if it determines such is necessary to: 1) minimize the illegal market; 2) efficiently meet the demand for marihuana; or 3) provide access to rural areas.
State Social Equity Plan

- LARA tasked with creating a “plan to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities” Section 8.1(j) of MRTMA

- Identified 41 communities disproportionately impacted by marihuana enforcement; Kalamazoo is among those identified communities.

- All licensees, whether eligible for the State's social equity plan for the identified disproportionately impacted communities or not, are required to submit a social equity plan with their application that promotes and encourages participation in marihuana industry by people from disproportionately impacted communities and positively impact those communities. Adult Use Emergency Rule 7 (13)
**State Licensing/Renewal Fees for Adult Use Marihuana Businesses**

<table>
<thead>
<tr>
<th>License Type</th>
<th>Application Fee</th>
<th>Renewal Fee (based on gross weight)</th>
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<tbody>
<tr>
<td><strong>Application Fee (All licenses)</strong></td>
<td>$6000</td>
<td></td>
</tr>
<tr>
<td>Class A Grower</td>
<td>$4,000</td>
<td>$3-4-5,000</td>
</tr>
<tr>
<td>Class B Grower</td>
<td>$8,000</td>
<td>$6-8-10,000</td>
</tr>
<tr>
<td>Class C Grower</td>
<td>$40,000</td>
<td>$30-40-50,000</td>
</tr>
<tr>
<td>Excess Grower</td>
<td>$40,000</td>
<td></td>
</tr>
<tr>
<td>Microbusiness</td>
<td>$8,000</td>
<td></td>
</tr>
<tr>
<td>Processor</td>
<td>$40,000</td>
<td></td>
</tr>
<tr>
<td>Retailer</td>
<td>$25,000</td>
<td>$20-25-30,000</td>
</tr>
<tr>
<td>Secure Transporter</td>
<td>$25,000</td>
<td></td>
</tr>
<tr>
<td>Safety Compliance</td>
<td>$25,000</td>
<td></td>
</tr>
<tr>
<td>Consumption Establishment</td>
<td>$1000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Event Organizer</td>
<td>$1000, then $500 per day of temporary event* &amp; $500 per day for each seller of marihuana product.</td>
<td></td>
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</tbody>
</table>

*Events limited to no more than 7 consecutive days. Requires written municipal approval to hold event at the proposed location.*
State Social Equity Licensing Plan

- Proof of residency within an impacted community for the past 5 consecutive years receives a 25% discount to State licensure and renewal fees. **(Note: This is mandatory requirement)**

- Proof of a conviction for a marihuana-related offense, except for distribution of a controlled substance to a minor, permits an additional 25% discount.

- Proof of being a registered caregiver under the MMMA for at least 2 years between 2008-2017, permits an additional 10% discount.

- Must locate adult use marihuana establishment within the corporate limits of an impacted community.
Municipal Regulation of Commercial Adult Use Marihuana

- Local ordinances may not conflict with MRTMA, or rules issued by LARA pursuant to MRTMA, or be “unreasonably impracticable”.

- State will issue a license if proposed marihuana business is:
  a) “not within an area zoned exclusively for residential use”, and
  b) not within 1000 feet of a “preexisting public or private school” that provides K-12 education. Local municipality may reduce this distance to less than 1000 feet.

- May not prohibit grower, processor and retailer from operating within a single facility or from a location shared with a MMFLA licensee.
Municipal Regulation of Commercial Adult Use Marihuana

- May require local licensure to operate a marihuana establishment.

- May charge an annual fee of not more than $5000 to defray administrative and enforcements costs associated with the licensed establishment.

- If the number of applicants for licensure exceed the number of allowed establishments, then municipality must use a "competitive process" to select applicants "who are best suited to operate in compliance" with the MRTMA.

- May regulate public signs & time, place, and manner of operations.

- Preempted from regulating industrial hemp, i.e., CBD products < 0.3% THC.
Municipal Response: Preparation of ordinances and policies

1. Amend any applicable City ordinance provisions to bring language up to date due to changes in MMFLA & MMMA 😊

2. Amend City Zoning Code to define where various types of adult-use marihuana establishments may lawfully locate

3. Develop and implement a local Social Equity Plan which meets Imagine Kalamazoo 2025 Strategic Goals of: a) Economic Vitality, b) Shared Prosperity, and c) Strength through Diversity

4. Draft ordinance to address licensing adult-use marihuana establishments:
   a. Limitation on types of allowed marihuana establishments in the City?
   b. If limiting number, design a competitive process to select licensees.
   c. Create a licensing process complementary to that of the State.
   d. What should a local Social Equity Plan provide?