Adult Use Marihuana – Public Feedback Meeting

February 5, 2020

Location: City Hall, 241 W. South St., Kalamazoo MI 49007

Time: 3:00 – 5:00 PM

Summary Notes from Public Meeting:

Shared Prosperity / Social Equity:

- Waive City administrative fee; mirror State social equity plan to reduce local licensing fee
- Provide funding or financing for impacted residents to participate
  - State Charter Banks?
  - local Credit Unions?
  - Other?
- Small learning curve with experienced Caregivers entering the business. Should incentivize local Caregivers to apply for Class A Grow Licenses
- Consider not allowing Class B and Class C Grow licenses
- Cap the number of B/C Grow licenses?
- Reduce restrictions on where other classes of grow licenses can be located
  - Broaden location access to properly zoned areas to combat real estate prices
  - Where outside of Manufacturing Districts can Class A be located?
  - Where can microbusiness be located?
- What is the breaking point for plant count to make a grow operation successful?
- Limit event and consumption licenses to minorities only; limit to small businesses
- Competitive process – prioritize low income applicants
- Make equity its own classification
- Provide resources, education and grants and make property available for lease/purchase to small businesses
- Provide training to young minorities
- Consider moving the ordinance development along now and creating a local social equity plan later
- Encourage local hire; neighborhood-based incentives. Use zip code, census tracts or neighborhood-based hiring requirement (doing it in G.R.)
License Type/Facility Location:

- Permit clustering of microbusinesses
- Permit Class A Grow operations as home occupations (MMFLA only permits grow operations in an industrial, agricultural or unzoned area).
- Consumption establishments should be regulated like bars selling alcohol. Being more restrictive than this would be unfair
- Safety Compliance facilities are very important to encourage. Limited number around the State
- Looking closely at policing standpoint for Event Organizer, Event License, Consumption Establishment License.
- Don’t handicap current Medical Marihuana Grow operations by not allowing Adult Use licenses for the existing facilities under construction or in operation in the City of Kalamazoo

General Questions/Responses:

- **Question:** What about odor control? Should have standards for Consumption Establishments and use of Marihuana in residentially zoned areas. Protections need for residents.
  
  **Response:** The City of Kalamazoo has a Nuisance Ordinance which is applicable if odor becomes problematic with a licensed facility. Additional standard for air filtration are also under consideration.

- **Question:** Will a new administrative policy need to be created to start accepting applications after the ordinance is approved?
  
  **Response:** The City Clerk is currently looking at mirroring the current process for Medical Marihuana Licenses. The one caveat to that is the addition of the social equity plan requirement.

- **Question:** Is there a regulation that bans owning/hiring within five years of conviction?
  
  **Response:** This can be confusing. Under the MRTMA (adult use law) the statute prohibits ownership by anyone who has a conviction for distribution of a controlled substance to a minor. This prohibition is also reflected in the Emergency Rules. The Rules also state that a license may be denied if an owner “has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.”

  As for an adult use business hiring employees, the Rules only prohibit hiring an individual convicted of an offense involving distribution of a controlled substance to a minor. The
Rules also indicate that the Marijuana Regulatory Agency will maintain a list of “excluded employees”.

However, because for the first two years, for many adult use licenses, an adult use licensee must also hold a medical marijuana license under the MMFLA, one needs to reference that statute and regulatory rules as well. The MMFLA provides that a license cannot be issued to an applicant who:
1) has been convicted of or release from incarceration for a felony within the past 10 years;
2) has been convicted of a controlled substance-related felony within the past 10 years;
3) convicted of a misdemeanor offense involving a controlled substance, theft, dishonesty, or fraud within the past 5 years.

Thus, if an applicant is not eligible for a medical marijuana license, it would preclude them from getting an adult use license where the medical marijuana license is required.

As for employees of a medical marijuana licensee, under the MMFLA, a Grower or Processor may not employ a person who is currently a registered caregiver under the MMMA. Additionally, the Rules require a criminal history background check of prospective employees (and that the employer keep a record of having done so). If that background check reveals a pending charge or conviction within the past 10 years for a controlled substance felony, the individual is not eligible for hire without permission of the Marijuana Regulatory Agency. Additionally, the Agency maintains a list of “excluded employees” that are ineligible for employment.

Thus, the two statutes don’t neatly mesh. This should not come as a surprise since the MMFLA was adopted by the Legislature and the MRTMA was not, thus there was no review by the Legislative Service Bureau which reviews proposed legislation so to avoid inconsistencies between statutes. In my view, if the same site is used for both adult use and medical marijuana sales, the more restrictive rules on hiring would be applicable, thus a person with a controlled substance felony within the past 10 years is ineligible for employment, even if it did not involve distribution to a minor. – City Attorney Clyde Robinson

- **Question:** What does the ‘Real’ time frame look like for beginning to sell Adult Use marihuana?

  **Response:** The ordinance is effective seven days after approval by the City Commission. The Social Equity Policy is planned for completion at the same time. The City could begin accept applications a couple weeks after approval of the ordinance by the City Commission. Turnaround time of local license reviews will vary based on the social equity requirements.