



500 West Big Beaver  
Troy, MI 48084  
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## CITY COUNCIL AGENDA ITEM

Date: February 4, 2020

To: Honorable Mayor and City Council

From: Mark F. Miller, City Manager  
Lori Grigg Bluhm, City Attorney

Subject: City of Troy's Regulation of Medical and Recreational Marihuana

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City Council received a request from an industrial property owner in the City, requesting a change to the City's long standing stance on prohibiting commercial marihuana facilities in the City of Troy. In response to that request, we were asked to provide a brief history of the City's actions under the Michigan Medical Marihuana Act (MMMA), which was passed as an initiative in 2008, and also the Medical Marihuana Facilities Licensing Act (MMFLA), which was the State Statute that expressly allowed commercial marihuana facilities for medical marihuana purposes, as well as the more recently passed Adult Use/ Recreational Marihuana Act (MRTMA), passed as a Michigan voter initiative in 2018. Michigan law uses the spelling "marihuana" rather than "marijuana."

**Michigan Medical Marihuana Act (MMMA)-** This state initiative act allowed for doctors to certify that patients with certain medical ailments would benefit from the use of marihuana. Upon receipt of this certification, the patient would apply for a medical marihuana card. Patients could grow their own marihuana (up to 12 plants), or they could designate a caregiver to grow marihuana for them. Caregivers are limited to growing 12 plants per patient, and cannot serve more than 6 patients. Since 2008, there were approximately 78 caregivers that were issued occupancy permits, which allowed them to grow up to 72 marihuana plants in industrial buildings. There were numerous complaints about these operations, and Council enacted a moratorium to prevent any additional occupancy permits from being issued. In April 2018, City Council passed a local ordinance that required caregivers to obtain licensing from the City (Chapter 104, Medical Marihuana Grow Operation License Ordinance). As of today's date, there are 46 MMGOL licenses, with three additional applications pending. When drafting this ordinance, City Administration knew that licensed caregivers would be prohibited from operating commercial businesses under the other state marihuana laws. There was a belief that there would be attrition with several of Troy's caregiver operations. City Administration was directed to limit the production of marihuana in the City, and therefore drafted the ordinance allowing all existing caregiver operations to continue, but prohibiting transfers of caregiver licenses and prohibiting any new caregiver licenses until there were less than 36 licenses in the City. Three separate lawsuits were filed, challenging this ordinance. The City prevailed on one of the lawsuits, and on the requests for injunctive relief in all of them. Two of the lawsuits are pending, waiting for the Michigan Supreme Court to issue its opinion in the *DeRuiter v. Byron Township* case, which discusses allowable municipal regulations under the MMMA.

**Michigan Medical Marihuana Facilities Licensing Act (MMFLA)-** The MMMA was limited, and did not allow for commercial establishments to produce or sell marihuana. As a result, the Michigan legislature passed this law in 2016. For those municipalities that affirmatively opted in,



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there was a promised share in 3% of the revenue received from provisioning centers (stores). This benefit was eliminated with the passage of the Adult Use Marihuana initiative. Other than personal property tax, municipalities were not afforded any other monetary benefits from the industry. The City of Troy did not take any action to opt in to the MMFLA, and there are no commercial medical marihuana facilities here. Commercial facilities would include large scale grow operations, processing facilities, transporting facilities, testing facilities, and provisioning centers or sales operations.

**Michigan Regulation and Taxation of Marihuana Act (MRTMA), or Adult/ Recreational Use-** In November 2018, the Michigan electorate passed the MRTMA, allowing for adult use marihuana use and commercial facilities. On November 12, 2018, the Troy City Council directed City Administration to draft an ordinance to opt out of recreational marihuana facilities, noting that the Troy electorate was not in favor of this initiative (19,508 no votes to 18,528 yes votes). With this adult use recreational law, municipalities needed to take affirmative action to prohibit commercial facilities within its borders. After the passage of this initiative, the State of Michigan developed regulations, and after the publication of the temporary rules, the City of Troy passed an ordinance officially opting out of the MRTMA, which prohibits any recreational adult use marihuana commercial facilities in the City of Troy (Chapter 105). This ordinance can be revisited by the Troy City Council. However, there are still many unknowns with the MRTMA, and most of our surrounding communities have also opted out. There are lawsuits filed in other Michigan communities, challenging municipal regulations under the MRTMA.

The MRTMA expressly allows for delivery of marihuana, and transportation of marihuana products through the City. As a result, City of Troy residents can acquire marihuana through home delivery from licensed facilities in other communities, can buy marihuana from licensed commercial stores in other communities, and also can grow up to 12 plants per home. City Administration predicts that with the passage of the MRTMA, there will be a reduced demand for the licensed caregivers under the City's MMGOL ordinance, especially since those persons over 21 who were previously registered as medical marihuana patients can now obtain recreational marihuana.

City Administration recommends no revision to Chapter 105, and would be happy to expound upon the numerous reasons if City Council was interested in opting in to the MRTMA, allowing adult use recreational marihuana facilities.