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Recreational Marihuana: How Michigan Municipalities are Dealing with Legalized Marihuana

by Rebecca A. Camargo



With the passing of Proposal 1 in 2018, legalizing recreational marihuana, cities and towns across the state of Michigan have had to deal with deciding whether to opt in or opt out, drafting ordinances reflecting the decision, and preparing the infrastructure necessary when opting in. While each municipality had to either opt in to allow growing, testing, and/or sales of marihuana, or opt out by November 2019, many communities are still grappling with that decision and potential outcomes.

Proposal 1 was passed with 55.9% of voters voting yes. However, of the 1,773 municipalities in the State, only 20% had opted in by December 1,

2019. Many communities chose to opt out and take a wait and see approach. Any municipality that previously opted out can later choose to enact an ordinance to allow sales of recreational marihuana.

Additionally, the citizens of a municipality can create a ballot initiative to be placed in a general election and allow the entire community to vote for or against recreational marihuana.

Of the 380 communities that opted in to allow sales of recreational marihuana, many have not yet issued a single adult use license. In fact, as of July 7, 2020, there were only 111 active licenses in the State of Michigan. The cause of the delays in many communities is simply due to the many considerations it takes to draft and administer a recreational marihuana ordinance.

Take for instance, a city that opted in and drafted an

ordinance allowing certain recreational marihuana facilities, grow operations, or testing facilities, or all of the above. That city then has to consider zoning requirements, building permits, and general infrastructure to regulate these operations. In particular, the city must ensure that its ordinance contains equal opportunities for all applicants to obtain a license. This includes fair criteria and point systems for the city to determine the winner or winners of a particular type of license. Should there be any intimation of inequality, the city will undoubtedly face litigation.

After drafting the ordinance with a fair scoring system, the city must then accept applicants for a license and regulate the licensees. The city needs to have an adequate infrastructure to regulate zoning and compliance. Many smaller communities that opted in are still putting together that infrastructure in order to prepare for the licenses. Once

those smaller communities have implemented the necessary tools to go forward, we can anticipate hundreds of additional adult use licenses across the state.

While the majority of the municipalities that opted out in 2019 have not since drafted ordinances opting in, there has been a small wave of community driven ballot initiatives to allow recreational marihuana licenses. The success of such an initiative is unclear as there were only a few on the 2019 ballots. Of those, only one community driven proposal was approved by the

voters to allow recreational marihuana. The rest failed. There will be ballot initiatives on the 2020 ballot, and the results of those may help to guide other communities going forward.

As Proposal 1 matures, it will be interesting to see how communities that opted in are handling the many aspects of recreational marihuana. Based on the successes or failures of those communities, we can expect to see municipalities either opting in or steadfastly opting out.

If you would like more information regarding recreational marihuana use or how it is affecting your municipality, please contact Rebecca Camargo in our municipal department.◊

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