



Marijuana Emergency Rules: What Municipalities Should Know

Laura J. Genovich and Kaitlyn Manley (Summer Associate)

Foster Swift Municipal Law News

August 8, 2019

Grand Rapids

Introduction

This past November, Michigan voters passed the Michigan Regulation and Taxation of Marijuana Act (MRTMA) which legalized the sale and recreational use of marijuana for adults 21 years of age and older. Although the sale of marijuana has been legalized, marijuana establishments have not been able to open shop just yet. Prior to opening for business, the proposed establishment must receive a license to operate from the State of Michigan.

The State has recently published emergency rules guiding the licensing process and will likely begin issuing licenses as early as October. It is important that municipalities are aware of their role in the licensing process in order to comply with the law and act in the best interest of their communities.

Emergency Rules

The Michigan Marijuana Regulatory Agency has recently published emergency rules that set forth standards and procedures to license and regulate marijuana establishments in the State. Municipalities both approving and prohibiting marijuana establishments within their communities should look to the emergency rules for guidance to ensure that they are taking the appropriate steps to achieve their ultimate goal.

If a municipality wants to “opt-out” under the MRTMA, it should pass an ordinance which prohibits the operation of marijuana establishments. The emergency rules state that a license application must be denied if the municipality in which it would be located has passed an ordinance prohibiting marijuana establishments.

AUTHORS/ CONTRIBUTORS

Laura J. Genovich

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To avoid complications, municipalities should use clear language and explicitly prohibit the operation of marijuana establishments for recreational purposes under the MRTMA.

If a municipality wants to permit the operation of marijuana establishments, it should be prepared for its role in the application process.

The emergency rules state that a license application must include a “confirmation of compliance” stating that the proposed establishment would not conflict with any municipal ordinances. The confirmation must be on a formal attestation form and include the following information:

- Verification that the municipality has not adopted an ordinance prohibiting marijuana establishments
- Description of any regulations within the municipality that apply to the proposed marijuana establishment
- The date and signature of the clerk of the municipality or his or her designee on the attestation form attesting that the information stated in the document is correct
- The date and signature of the applicant
- The marijuana establishment name and address
- Attestation that any changes that occur with the municipal ordinance or any violations of a municipal or zoning ordinance will be reported to the agency

Specifically, municipalities should ensure that their clerks have sufficient knowledge of the municipal code relating to marijuana establishments to verify that the information on the “confirmation of compliance” form is correct. If a municipality approves a marijuana facility in their community, it will also be involved in the license renewal process. Similar to the application process, the renewal process requires a municipality to complete an attestation form which shall include:

- A description of any violation, if applicable, of an ordinance or a zoning regulation adopted pursuant to section 6 of the act, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the act or these rules, or the Michigan Marijuana Facilities Licensing Act (MMFLA) and its associated rules, or both.
- Whether there has been a change to an ordinance or a zoning regulation adopted pursuant to section 6 of the act, MCL 333.27956, since the state license was issued to the licensee and a description of the change.

Conclusion

Given the fact that the State of Michigan will soon be issuing licenses for marijuana establishments, municipalities should familiarize themselves with the application and licensing process to ensure that the proper steps have been taken to prevent the licensure of marijuana establishments in their community or to prepare themselves for their role in the application process.



For questions and concerns about current marijuana regulations with municipalities, contact Laura Genovich at 616.726.2238 or at lgenovich@fosterswift.com. Laura Genovich practices municipal, land use, and commercial law in the firm's Grand Rapids office.
