

March 31, 2017

Planning Commission
Northfield Township
8350 Main Street
Whitmore Lake, MI 48189

Subject: Medical Marihuana Zoning Regulations

Dear Planning Commissioners:

As a follow-up to our Proposed 2017 Community Development Work Plan for Northfield Township and our discussion at the March 28, 2017 Township Board Joint Session with the Planning Commission, we would like to provide you with more information regarding recent amendments to State Law regarding medical marihuana facilities.

Background

On September 22, 2016, Governor Snyder signed three new bills that expand the regulatory framework affecting medical marihuana in Michigan. Of these, PA 281, the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., is the one which is of particular interest to municipalities, both because it provides a range of land uses that the state will be licensing, which a municipality may choose to allow within its jurisdiction, and because there are license fees, and potential tax-sharing revenue, available to municipalities related to those facilities.

PA 281 became effective on December 20, 2016, and it provides that licensing of marihuana facilities, by the State, will begin 360 days after its effective date, i.e. in December of 2017. Thus, municipalities also have about that long to consider what actions they would like to take in response to it, though proprietors will certainly want to be securing sites in anticipation. PA 281 authorizes the following 5 types of facilities:

1. Class A-C Growers (500-1,500 plants);
2. Processors;
3. Secure Transporters;
4. Provisioning Centers (commonly called dispensaries); and
5. Safety Compliance Facilities (testing labs).

A municipality may adopt an ordinance to authorize one or more of the five types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. If a municipality wants to prohibit all 5 types of facilities, it is unclear whether the municipality must adopt an ordinance to that effect or simply do nothing.

Act 281 imposes a 3% excise tax on the retail sale of medical marihuana by licensed provisioning centers. This tax goes into a single fund administered by the State Treasury, with 60% being returned to counties and municipalities as follows:

- 25% to municipalities in which a marihuana facility is located;
- 30% to counties in which a marihuana facility is located;
- 5% to counties in which a marihuana facility is located, to be used exclusively to support the county sheriffs.

The “shared funds” to a municipality or county will be allocated in proportion to the number of facilities within its boundaries compared to the total number of facilities in the state, without regard to the size or sales of each facility.

Based upon the estimates of the Senate Fiscal Agency, municipalities in Michigan are expected to receive \$5.3 million annually in revenue from the excise tax, shared in proportion to the relative number of facilities that they have. In addition, the State has indicated its intention to apply the sales tax to the retail sales of medical marihuana.

Municipalities that choose to regulate marihuana facilities are also authorized to charge up to a \$5,000 annual license fee per facility to administer their regulatory program.

Currently, Northfield Township only allows medical marihuana cultivation by primary caregivers as a home occupation, where the primary caregiver may grow medical marihuana for his/her patients and himself/herself if the caregiver is also a patient. The current regulations are in Sections 36-64(2) and 36-729 of the Zoning Ordinance, and these types of home occupation growing activities would not be regulated or taxed under the Medical Marihuana Facilities Licensing Act.

Recommendations

We recommend that the Planning Commission discuss the 5 new types of facilities authorized by the Medical Marihuana Facilities Licensing Act and consult with the Township Attorney regarding what actions, if any, the Township should take to achieve its desired regulations. We also recommend reviewing the current standards for medical marihuana in the Zoning Ordinance and update this language as necessary in order to be consistent with the Michigan Medical Marihuana Act.

We look forward to discussing the medical marihuana regulations with you at an upcoming Planning Commission meeting.

Respectfully submitted,

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