



Legislation Text

File #: 10-0793, **Version:** 2

Title

Resolution to Impose a Temporary Moratorium on the Use of Property and Structures in the City for Dispensing and Cultivating Marihuana

Body

Whereas, City staff has received inquiries concerning the use of property and structures in the City for use as facilities for dispensing medical marihuana and/or cultivating medical marihuana plants;

Whereas, the City of Ann Arbor's Zoning Ordinance does not specifically provide for properties or structures to be used as facilities for dispensing marihuana or cultivating marihuana plants for medical or any other purposes, and this use was not envisioned when the zoning ordinance was adopted;

Whereas, the City of Ann Arbor Master Plan: Land Use Element adopted on November 5, 2009, by Council Resolution R-09-438, and the City's general prohibition on uses not expressly permitted by the City's Zoning Ordinance must be considered in addressing whether and/or where to allow facilities for dispensing marihuana and/or cultivating marihuana plants;

Whereas, the Michigan Medical Marihuana Act ("the Act") permits registered qualifying patients and primary caregivers to possess specific amounts of marihuana and to cultivate a specific number of plants, but the Michigan Medical Marihuana Act does not specifically provide for facilities for dispensing medical marihuana and/or cultivating medical marihuana plants;

Whereas, the federal law contains no provisions for the dispensation or cultivation of marihuana for medical or any other purposes;

Whereas, it is unclear whether any state and/or federal regulations that apply to entities that dispense controlled substances, for the benefit of the public health, safety, and welfare, would apply to facilities where marihuana is dispensed or where marihuana is cultivated;

Whereas, therefore, federal, state, and local laws lack clarity as to whether such facilities might be allowed and, if allowed, where they might be located that is conducive to the public health, safety and welfare of the City;

Whereas, the issue of allowing or disallowing facilities for the dispensing or cultivating of marihuana may be settled by the state Legislature;

Whereas, the City desires to ascertain the best and safest path to compliance with the Michigan Medical Marihuana Act, MCL 333.26423(d) in order to protect the public health, safety, and welfare;

Whereas, City Council has determined that it is necessary to amend City Code to address this issue and is directing City staff and the Planning Commission to study, and make specific

recommendations to amend City Code regarding such facilities; and

Whereas, it is therefore prudent to immediately forbid use of all property and structures in the City of Ann Arbor as facilities for dispensing marihuana or cultivating marihuana plants for medical or any other purposes for a limited period of time until City Code can be amended to address such facilities;

RESOLVED, That City Council hereby imposes a temporary moratorium prohibiting the initiation or expansion of the use of any property in the City as a facility for dispensing marihuana for medical and any other purpose and for cultivating marihuana plants, and that any zoning compliance permits or building and trade permits for such uses be deferred for a period of 120 days from the date of this resolution, in conjunction with the study and revision of the City's Zoning Ordinance or other ordinances regarding this issue;

RESOLVED, That this moratorium does not apply to the following:

- A dwelling unit (as defined by the Zoning Ordinance) where a qualifying patient under the Act resides and is cultivating up to the maximum number of marihuana plants permitted by the Act for personal use or possesses up to the maximum amount of marihuana permitted by the Act for personal use.
- A building or structure (as defined by the Zoning Ordinance) other than a dwelling unit where no more than one qualifying patient under the Act is cultivating up to the maximum number of marihuana plants permitted by the Act for personal use or possesses up to the maximum amount of marihuana permitted by the Act for personal use.
- A dwelling unit or other building or structure where no more than one primary caregiver under the Act is cultivating up to the maximum number of marihuana plants permitted by the Act for assisting a qualifying patient or possesses up to the maximum amount of marihuana permitted by the Act for assisting a qualifying patient.

RESOLVED, That City Council directs City staff and the Planning Commission to study and make specific recommendations for ordinance amendments that restrict facilities for dispensing marihuana to appropriate zoning districts along with spacing requirements, and to also regulate such use in residential districts;

RESOLVED, That the moratorium imposed by this resolution shall expire the earlier of 120 days from its effective date or upon adoption by City Council of ordinance amendments regarding the issue of facilities for dispensing marihuana and/or cultivating plants for medical or any other purposes.

As Amended by City Council on August 5, 2010

Sponsored by: Councilmembers Higgins, Taylor, Rapundalo and Teall.