

FARMINGTON PUBLIC SAFETY DEPARTMENT

ENFORCEMENT OF PROPOSAL 1:
MICHIGAN REGULATION & TAXATION OF
MARIJUANA ACT

PRESENTED TO FARMINGTON CITY COUNCIL

JANUARY 7, 2019

HISTORY OF THE ACT

- ▶ Prior to November 6, 2018, medical marijuana use was regulated under Michigan Medical Marijuana Act of 2008 (MMA). ***No recreational marijuana.***
- ▶ The MMA gave certain permissions to license medical marijuana patients and caregivers to use/consume/possess marijuana.
- ▶ Under the MMA, a Michigan licensed patient:
 - Grow up to 12 plants for his/her own use.
 - Possess a small amount of “usable” marijuana (2.5oz.)
- ▶ A licensed **caregiver**:
 - Grow up to 12 plants for 5 patients (If the caregiver is also a patient, he/she could lawfully grow 72 plants)

ENFORCEMENT OF THE MMA

The 2008 MMA had little impact on marijuana enforcement.

- ▶ Officers made a large number of arrests for possession of marijuana
- ▶ MMA cardholders were released and not charged
- ▶ Tips related to illegal marijuana use and sale were forwarded to the department's narcotics officer
- ▶ Large amounts of marijuana were seized and destroyed.
- ▶ Civil forfeiture remained steady.
- ▶ Possession of marijuana was a 93 day misdemeanor that carried a \$500 fine.
- ▶ Marijuana cases accounted for 71% of all narcotics cases. Over the last 5 years.

PROPOSAL 1 – What is allowed?

- ▶ Possess/consume 2.5 ounces or less of marijuana
 - ▶ 1 oz. of marijuana = 56 joints
 - ▶ 2.5 oz. of marijuana = 140 joints (approx.)
- ▶ Within a persons residence, possess and store not more than 10 ounces of marijuana
 - ▶ 10 oz. Of marijuana = 560 joints (approx.)
- ▶ Within a persons residence, cultivate not more than 12 marijuana plants for personal use
 - ▶ Each plant produces approx. 5 oz. of marijuana
 - ▶ 5 oz. X 12 plants = 60 oz. or 3,360 joints (approx.)
- ▶ Give away (without compensation) up to 2.5 ounces of marijuana to a person 21 years of age or older
- ▶ Possess and sell marijuana accessories

How much are we talking here?



2.5 ounces of marijuana



10 ounces of marijuana

What is Prohibited?

- ▶ Possession or cultivation of marijuana by a person under 21 years old
- ▶ Possession of more than 2.5 ounces of marijuana (unless excess up to 10 oz. is stored in enclosed, locked area within a residence)
- ▶ Operating motor vehicles or boats while consuming or under the influence of marijuana
- ▶ Smoking marijuana while in the passenger area of a vehicle
- ▶ Consuming marijuana in a public place
- ▶ Smoking marijuana in a place where prohibited by the property owner, occupier or manager.

What is prohibited? (cont.)

- ▶ Cultivating marijuana plants where visible from a public place (without the use of binoculars, aircraft, or other optical aids)
- ▶ Growing marijuana outside of an enclosed area
- ▶ Possessing marijuana accessories or possessing or consuming marijuana:
 - ▶ On the grounds of a school (Preschool – Grade 12)
 - ▶ In a school bus
 - ▶ In a correctional facility

Civil Criminal Penalties

- ▶ For a violation involving an amount of marijuana permitted under the Act:
 - ▶ Civil Infraction and a fine of not more than \$100
- ▶ For a violation involving not more than twice the amount of marijuana permitted under the Act:
 - ▶ First violation: Civil Infraction and a fine of not more than \$500
 - ▶ Second violation: Civil infraction and a fine of not more than \$1000
 - ▶ Third/Subsequent violations: Misdemeanor and a fine of not more than \$2000

Civil/Criminal Penalties (cont.)

- ▶ For a violation involving more than twice the amount of marijuana permitted under the Act: (Previously a felony)
 - ▶ Misdemeanor
 - ▶ NOT subject to imprisonment unless the violation was (1) habitual, willful, and for a commercial purpose or (2) involved violence

Penalties for Minors

- ▶ For a person under the age of 18 who possesses or cultivates an amount of marijuana otherwise permitted under the Act:
 - ▶ First violation: Fine of not more than \$100 or community service, 4 hours of drug counseling
 - ▶ Second violation: Fine of not more than \$500 or community service, 8 hours of drug education counseling
- ▶ For a person over the age of 18 but less than 21 who possesses or cultivates an amount of marijuana otherwise permitted under the Act:
 - ▶ First Violation: Fine of not more than \$100
 - ▶ Second violation: Fine of not more than \$500

FPSD Enforcement

- ▶ Advanced Roadside Impaired Driving Enforcement (ARIDE)
 - ▶ Designed to help officers become more proficient at detecting, apprehending, testing and prosecuting impaired drivers (alcohol and drugs)
 - ▶ Department currently has three ARIDE trained officers with additional officers scheduled to be trained in the coming months.
- ▶ Waiting direction from Oakland County Prosecutors Office

MARIJUANA CONFISCATION/FORFIETURE

- ▶ Federal vs. State Law
 - ▶ Attorney General Bill Schuette's Opinion #7262, November 10, 2011
 - ▶ Federal law supersedes state law
 - ▶ Marijuana is still illegal under Federal law
- ▶ In summary,
 - ▶ Too many unknowns, new law
 - ▶ Awaiting direction from state and local prosecutors

Health & Public Safety Concerns

- ▶ Dispensaries are an all cash business. Most banks will not take proceeds from sale and distribution of marijuana. Strong vulnerability to armed robberies and burglaries.
- ▶ Marijuana edibles getting into the hands of children (lessons from Colorado).
- ▶ Odor complaints from residents.
- ▶ Home invasions/burglaries to homes where marijuana is grown and stored.
- ▶ Increased accidents due to people operating under the influence of marijuana (Colorado; 90% of drivers in fatal crashes tested positive for marijuana).