



City of Detroit

Detroit City Council

Councilman Coleman A. Young II

Councilmember At Large

Coleman A. Young Municipal Center ~ Suite #1340
Two Woodward Avenue ~ Detroit, MI 48226

MEMORANDUM

TO:

President Mary Sheffield

Pro Tem James Tate

Council Member At-Large Mary Waters

Council Member Scott Benson

Council Member Fred Durhal III

Council Member Latisha Johnson

Council Member Gabriela Santiago-Romero

Council Member Angela Whitfield-Calloway

David Whitaker, Director Legislative Policy Division

Charles Raimi, Interim Corporation Counsel, Law Department

FROM:

Council Member At-Large Coleman Young

DATE:

March 16, 2022

RE:

Amendments to the Proposed Medical Marijuana Facilities and Adult Use-Marijuana Establishments Ordinance

Colleagues,

I would like to offer the following amendments for the Detroit City Council's consideration.

Thank you.



LAW DEPARTMENT

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**PRIVILEGED AND CONFIDENTIAL ATTORNEY-
CLIENT COMMUNICATION**

March 14, 2022

Detroit City Council
1340 Coleman A. Young Municipal Center
Detroit, Michigan 48226

RE: Proposed ordinance to amend Chapter 20 of the 2019 Detroit City Code, Health, Article VI
Medical Marijuana Facilities and Adult-Use Marijuana Establishments (the "Marijuana
Ordinance")

Honorable City Council:

On March 9, 2022, Council Member Young sent a letter dated March 4, 2022, to the
members of the Detroit City Council, the Legislative Policy Provision, and the Law Department,
offering various amendments to the current pending amendments to the City's Marijuana
Ordinance. The following constitutes the advice of the Law Department with respect to each of
the offered amendments.

1. Council Member Young is proposing an amendment to Section 20-6-1(11) to increase
the funds recommended to be allocated to furthering social equity goals of the
Marijuana Ordinance. This change occurs in the "purposes" section of the ordinance
and is a recommendation of the City Council that is subject to appropriation. This is a
policy decision that should be considered based on BSEED's expected revenue from
licensing under the Marijuana Ordinance and tax revenue sharing from the State of
Michigan pursuant to M.C.L. 333.27964. If this change is made it would not be
expected to affect any other section of the Marijuana Ordinance.

2. Council Member Young is proposing an amendment to Section 20-6-2, to restore the
definition "Common Ownership" to the Definitions section of the Marijuana
Ordinance. The term "Common Ownership" was removed from the Definitions section
of the Marijuana Ordinance because the term is not actually used anywhere in the
proposed amended Marijuana Ordinance. Re-inserting this definition would not be
expected to have any substantive effect on the Marijuana Ordinance.

3. Council Member Young is proposing an amendment to the definition of "Equity
Applicant" in Section 20-6-2 to change the word "and" between (1) the durational
residency requirement and (2) the reference to participation in Michigan's Social
Equity Program, to the words "and/or". It appears that this comment is being made

based on an earlier draft of the Marijuana Ordinance. Any durational residency requirement in the definition of "Equity Applicant" was removed in the official draft of the Marijuana Ordinance as of February 12, 2022, at the advice of outside counsel. The current draft of the Marijuana Ordinance, following the amendments proposed and accepted by the Public Health and Safety Committee at the public hearing on March 7, 2022, removed reference to the Michigan Social Equity Program as a basis of qualifying as an "Equity Applicant" under the City's Marijuana Ordinance. Accordingly, this request appears to be moot unless Council Member Young is proposing to re-insert the concept of a participant under Michigan's Social Equity Program as a means of qualifying as an "Equity Applicant" under the Marijuana Ordinance. This would effectively expand status as an "Equity Applicant" to any person who has a prior marijuana felony or misdemeanor conviction or who was a marijuana caregiver prior to 2017. It is a policy decision whether the City Council wants to make this expansion to the definition of "Equity Applicant".

4. Council Member Young is proposing an amendment to Section 20-6-31(a) to insert the words "and stacked licenses" after the phrase "including multiple grower licenses in one building". The term "stacked licenses" refers to multiple grower licenses that are issued to the same grower at the same facility. This proposed amendment would generally clarify this section of the Marijuana Ordinance. If this change is made it would not be expected to affect any other section of the Marijuana Ordinance.

5. Council Member Young is proposing amendments to Section 20-6-34 and Section 20-6-38 to (a) increase the number of adult-use retailer establishment licenses from 38 to 110, (b) to increase the number of adult-use retailer equity licenses from 38 to 115, (c) to increase the number of designated consumption equity licenses from 15 to 25, and (d) to increase the number of microbusiness equity licenses from 15 to 25. This is a policy decision for the City Council to consider and would result in a significant increase in the number of licenses available under the Marijuana Ordinance. If the number of available limited licenses were increased, then Section 20-6-38(a)(1) would also need to be amended to specify the number of limited licenses which would be issued in each of the three phases of licensing contemplated in the Marijuana Ordinance. Certain sections of Council Member Young's proposed amendments refer to "Detroit Legacy Licenses" and "Detroit Equity Licenses", which are not classes of licenses in the Marijuana Ordinance. We note that the decision in *Lowe v. City of Detroit* (E. D. Mich. 2021 WL 2471476, which enjoined the City from issuing licenses pursuant to the existing Marijuana Ordinance, harshly criticized the use of durational residency requirements in licensure as likely violating the so-called "dormant commerce clause" of the U.S. Constitution. The proposed amended Marijuana Ordinance does not contain durational residency requirements as part of qualifications for any type of license.

Please let us know if the Law Department can be of any further assistance in this matter.
Respectfully submitted,

Sec. 20-6-38. Licensing process for limited licenses.

(a) The City may award up to ~~38~~ 110 adult-use retailer licenses, ~~38~~ 115 adult-use retailer equity licenses, ~~15~~ 25 microbusiness licenses, ~~15~~ 25 microbusiness equity licenses, ~~15~~ 25 designated consumption establishment licenses, and ~~15~~ 25 designated consumption establishment equity licenses in the following manner:

(1) The City shall establish ~~three~~ a 30-day periods for taking applications for limited licenses other than medical marijuana provisioning center licenses under this section. Each of such ~~three~~ 30 day periods shall be separated by a period of at least ~~120~~ 30 days. CRIO shall make its recommendation for the timing of each of such ~~a~~ three 30-day application periods to the City Council, whose approval shall be required prior to the commencement of such application periods. Following each of such three application periods the City may issue up to the following number of licenses to qualified applicants who applied for the corresponding licenses during such period:

(i) ~~14~~ 14 adult-use retailer licenses following the first application period, and ~~12~~ 12 adult-use retailer licenses following each of the second and third application periods; ~~110~~ 110 adult-use retailer licenses following the application period;

(ii) ~~14~~ 14 adult-use equity retailer licenses following the first application period, and ~~12~~ 12 adult-use retailer equity licenses following each of the second and third application periods; ~~115~~ 115 adult-use retailer equity licenses following the application period;

(iii) ~~5~~ 15 microbusiness licenses;

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After the conclusion of the foregoing ~~initial three~~ 30-day application periods, as one of more limited licenses may be or become available, the City may thereafter establish one or more 30-day periods for taking applications for limited licenses other than medical marijuana provisioning center licenses under this section. CRIO shall make its recommendation for the timing of each of such 30-day application period and the number and type of limited licenses to be issued following such application period to the Detroit City Council, whose approval shall be required prior to the commencement of such application period.

- (iv) §25 microbusiness equity licenses;
- (v) §15 designated consumption establishment licenses; and
- (vi) §25 designated consumption establishment equity licenses.