



CITY of NOVI CITY COUNCIL

Agenda Item 6
February 11, 2019

SUBJECT: Consideration to Adopt Ordinance No. 19-193, an ordinance to amend the City of Novi Code of Ordinances, Chapter 22, "Offenses," Article 1, "In General," to add a new Section 22-9, "Marijuana Establishments Prohibited," to prohibit marijuana establishments within the boundaries of the City pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*; and to provide penalties for violation of such ordinance. **SECOND READING**

SUBMITTING DEPARTMENT:

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

In November 2018 voters in the State of Michigan approved a ballot proposal authorizing so-called "recreational" marijuana use. The new law adds substantially to the rights previously allowed to users of "medical" marijuana. The 2018 law allows—without any action of regulation by the City—those over 21 to grow, possess, consume, and even transfer marijuana subject to various regulations that are established in the law. These rights became effective as soon as the new law did, and, again, they apply without the need for any City approvals or authorization to engage in such conduct.

There is another aspect of the new law, however, that does potentially involve City authorization or approval, and that is with respect to what are called "marijuana establishments" in the new law. These are essentially commercial or business operations that relating to the retail sale/distribution and commercial growing of marijuana.

The new law states that "a municipality may completely prohibit or limit the number of [marijuana] establishments within its boundaries," and also that "a municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act" that regulate other commercial aspects of such businesses. In addition, the State of Michigan is charged with coming up with administrative rules that license and govern such commercial establishments. The State has a year from the effective date of the new law to do so.

The draft ordinance attached for City Council's consideration exercises its right to "opt out" of the commercial aspect of recreational marijuana by prohibiting the location of such establishments in the City. This is consistent with the City's determination not to allow commercial establishments that provided medical marijuana under that earlier law.

The timing of presenting this ordinance now is driven by the timing of the State of Michigan's obligation to issue administrative rules regulating these marijuana businesses. If the City does not have an ordinance in place that either prohibits such uses or limits their number at the time the State approves such regulations (again, it has a year to do so, but

could do so at any time in that one-year period), then such uses will be essentially unregulated in the City.

Adopting an ordinance prohibiting such establishments does not preclude the City from revisiting the issue in the future, should the Council choose to do so. And if the Council decides to continue discussion of the issue, adoption of this opt out ordinance now would give the City time to decide what it might want to allow/not allow regarding such businesses, and how many it might decide to allow, as well as the criteria for allowing them. It would also allow the City to wait and see what those State regulations might include, which could then help the City decide if it wants to allow businesses in the City under whatever those rules might turn out to be.

City Council approved First Reading of the ordinance at its January 7, 2019 meeting.

RECOMMENDED ACTION: Approve Adoption of Ordinance No. 19-193, an ordinance to amend the City of Novi Code of Ordinances, Chapter 22, "Offenses," Article 1, "In General," to add a new Section 22-9, "Marijuana Establishments Prohibited," to prohibit marijuana establishments within the boundaries of the City pursuant to the Michigan Regulation and Taxation of Marijuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq.; and to provide penalties for violation of such ordinance. **SECOND READING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 19-193

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, CHAPTER 22, "OFFENSES," ARTICLE I, "IN GENERAL," TO ADD A NEW SECTION 22-9, "MARIJUANA ESTABLISHMENTS PROHIBITED," TO PROHIBIT MARIJUANA ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE CITY PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW 1 OF 2018, MCL 333.27951, ET SEQ.; AND TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE.

THE CITY OF NOVI ORDAINS:

Section 1 of Ordinance. Ordinance Amendment.

Chapter 22, "Offenses," Article I, "In General," of the City of Novi Code of Ordinances is hereby amended to add a new Sec. 22-9, "Marijuana Establishments Prohibited," to read as follows:

Sec. 22-9. – Marijuana Establishments Prohibited.

- (a) *Intent; Purpose.* The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, and more specifically Section 6(1) thereof, MCL 333.27956(1), authorizes municipalities to prohibit marijuana establishments within their boundaries by adoption of an ordinance. Adoption of such an ordinance does not preclude a municipality from further studying and revisiting the issue at a future date.
- (b) *Prohibition of Marijuana Establishments.*
1. *Definitions.* Words used in this section shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.
 2. *Prohibition.* Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, all marijuana establishments are prohibited within the boundaries of the City.
 3. *Penalty.* A person who violates this section shall be responsible for a municipal civil infraction punishable as set forth in Chapter 1, Section 1-11 of this Code. Such sanctions shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies, including, but not limited to, the right to seek injunctive relief against persons

alleged to be in violation of this ordinance, and such other relief as may be provided by law. Additionally, the violator shall pay all costs, including all direct and indirect expenses that the City incurs in connection with the municipal civil infraction. Each day during which any violation continues shall be deemed a separate offense.

Section 2 of Ordinance. Repealer.

All ordinances, parts of ordinances, or sections of the City of Novi Code of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3 of Ordinance. Severability.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 4 of Ordinance. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

Section 5 of Ordinance. Effective Date.

This ordinance shall be effective upon publication in the manner prescribed by law.

Section 6 of Ordinance. Enactment.

This Ordinance is declared to have been enacted by the City Council of the City of Novi at a meeting called and held on the ____ day of _____, 2019, and ordered to be given publication in the manner prescribed by law.

Ayes:
Nays:
Abstentions:
Absent:

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ____ day of _____, 2019.

Cortney Hanson, City Clerk