



Agenda

Committee of the Whole Meeting

City of Kalamazoo

Tuesday, July 5, 2022

5:00 PM

City Commission Chambers – 241 West South Street

- A. CALL TO ORDER/ROLL CALL**
- B. COMMUNICATIONS**
- C. PUBLIC COMMENTS**
- D. SPECIAL AGENDA ITEMS**
- E. COMMITTEE OF THE WHOLE**
- F. WORK SESSION**
 - 1. Presentation on Cannabis Equity Initiative
- G. COMMISSIONER COMMENTS**
- H. ADJOURNMENT**



Marihuana: Ordinance & Policy Amendments

Kalamazoo City Commission
Committee of the Whole Meeting
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William “**Don’t Fear the Reefer**” Shakespeare, *Romeo & Juliet*, Act 2, Scene 2:

“What's in a name? **That which we call *marihuana* by any other name would smell as sweet.**”



Marihuana vs. Marijuana vs. Cannabis

Delta-9 and Delta-8 (Remember Organic Chem 102 class?)

Adult Use v. Recreational Use

And then there is the question of Industrial Hemp (which is not to be confused with the late Shemp Howard of Three Stooges fame)

Recent Statutory Changes

❖ Definition of Marihuana

- ❖ Plant of the genus *Cannabis* (either *sativa* or *indica*)
- ❖ Exceeds 0.3% on a dry-weight basis of **delta-9 tetrahydrocannabinol** (THC) concentration
- ❖ Amended to include any “extract, acid, isomer, salt of an isomer”
- ❖ *Effective October 11, 2021, must have license to sell **delta-8 THC** products*

❖ Change in Expungement Law (Public Act 192 of 2020)

- ❖ *Any conviction for a misdemeanor marijuana offense based on activity that would not have been a crime if committed on or after December 6, 2018 (i.e., possession or use) carries a rebuttable presumption in favor of expungement*
- ❖ *Prosecuting official has 60 days to object and present evidence to rebut the presumption*

November 2008: Voters approve **Michigan Medical Marihuana Act** :
Provides registered patients and their caregivers certain rights;
Act fails to provide for dispensaries or commercial sale of medical marihuana to qualifying patients or caregivers.

September 2016: Legislature adopts **Medical Marihuana Facilities Licensing Act**
Permits the commercialization of medical marijuana
Municipalities need not “opt-in”

November 2018: Voters approve **Michigan Regulation and Taxation of Marihuana Act** **Legalizes Possession, Use, Transfer by Adults 21 and older**
Requires municipalities to “opt-out”
Includes ‘Social Equity’ component
Imposes 10% excise tax on retail sales, to be shared with opt-in communities

State Regulation of Commercial Marijuana

- ❖ **Cannabis Regulatory Agency (CRA)** within the Michigan Department of Licensing and Regulatory Affairs (LARA) is given the responsibility of promulgating rules under the MRTMA to fill the statutory gaps “necessary to implement, administer and enforce” the Act.
- ❖ MRA will grant or deny applications for state licensure and will abide by local ordinances. See ***Brightmore Gardens v. Marijuana Regulatory Agency*** (May 2021) *Held that Detroit and Traverse City ordinances prohibiting marijuana establishments adopted while state applications for licensure were pending permitted MRA denial of those applications.*
- ❖ Municipal regulation of hemp and hemp (CBD) products is prohibited by State law

Michigan Medical Marihuana Facilities Licensing Act (2016)

Created 5 types of Medical Marihuana Commercial Establishments:

1. Grower

Class A – 500 plants

Class B – 1000 plants

Class C – 1500 plants, but stackable

2. Processor: extracts resin from plant /creates marihuana-infused products

3. Secure Transporter: transports marihuana & cash between facilities;

4. Safety Compliance Facility: tests samples of marihuana for contaminants and its active ingredients

5. Provisioning Center: sells marihuana/marihuana-infused products **only** to caregivers and patients registered under the Michigan Medical Marihuana Act (MMMA)

Michigan Regulation and Taxation of Marihuana Act or MRTMA (2018)

Created 12 types of Recreational Marihuana Establishments:

1. Grower

Class A – 100 plants (vs. 500 plants under MMFLA)

Class B – 500 plants (vs. 1000 plants under MMFLA)

Class C – 2000 plants (vs. 1500 plants under MMFLA)

2. Processor:

3. **Secure Transporter:** MRTMA does not explicitly require use of licensed transporters

4. Safety Compliance Facility:

5. **Retailer:** sell marihuana/marihuana-infused products **only** to person 21 and older

6. **Microbusiness:** grow up to 150 plants, process, package and sell marihuana

Class A Microbusiness: 300 plants, and need not process

7. MRA created 4 additional licenses:

- Designated Consumption Establishment**

- Excess Marihuana Grower** available to holders of Class C Rec & Med licenses

- Marijuana Event Organizer** permits holder to stage a marijuana event

- Temporary Marihuana Event** requires municipal permission

- Educational Research** requires registration from federal Drug Enforcement Administration

Local Regulation of Commercial Recreational Marihuana

A municipality ***may not*** adopt an ordinance that:

- a) restricts the transportation of marihuana through the municipality; or
- b) prohibits a marihuana grower, a marihuana processor, and a marihuana retailer from:
 - 1) operating within a single facility or
 - 2) from operating at a location shared with a marihuana facility operating pursuant to the medical marihuana facilities licensing act.

Municipal Regulation of Commercial Recreational Marihuana

MRTMA authorizes the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time;

This language gives cities control over Consumption Lounges and Temporary Special Events

Municipal Fee and Tax Revenue on Commercial Marihuana

"There's always cash when we sell drugs. That's why we sell drugs."

--Nancy Botwin (Character from the Showtime series "Weeds")

A municipality **may** charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality. (Fee must approximate administrative costs incurred by municipality.)

15% of the excise tax imposed on marihuana retail sales is earmarked for municipalities, *allocated based on the number of retail stores and microbusinesses located within the municipality.*

Kalamazoo has received based on the number of licensed retailers and microbusinesses:

2021: \$168,008

2022 \$564,534

Marihuana Excise Tax or “Show Me the Money”

It has been estimated that in the 4 to 6 years it will take for the Michigan marijuana industry to mature, it will generate \$3 billion a year in gross revenue.

This would result in \$298.6 million in excise tax revenue, of which 15% or about \$44.8 million will be doled out to municipalities with retailers and microbusinesses.

--Knudson & Miller, *“The Market for and Economic Impact of the Adult Use Recreational Marijuana Industry in Michigan”* MSU Extension Service (March 2020)

❖ Social Equity

MRTMA, §8.1(j) “promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities”

❖ ACLU Reports:

- ❖ *The War on Marijuana in Black and White, (2013)*
- ❖ *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform, (2020)*

❖ MRA Report:

- ❖ Racial Equity Advisory Group Final Recommendations (2021)
- ❖ July 2021 Update available

Social Equity/Community Benefits Agreements

Need to be mindful of:

Michigan Constitution, Article 1, Section 26: “shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.”

Commerce Clause, Congress has the power to regulate Commerce among the several States

Fourteenth Amendment, can’t “deny to any person within its jurisdiction the equal protection of the laws.”

Favored Residents’ Clauses: triggers equal protection, dormant commerce clause

Lowe v Detroit: preliminary injunction granted against ordinance favoring Detroiters

Community Benefit Agreements, subject to challenge on basis of:

- ❖ Not an indicator of “who is best suited to operate in compliance with MRTMA”
- ❖ Unlawful exaction

Social Equity/Community Benefits Agreements

Local Permit Ordinance

Chapter 20B, “Marijuana Businesses” amended to:

- a. Reflect changes in statutory and regulatory law largely through amendment and addition of definition of terms.*
- b. Improve local permitting and renewal process*
 - 1. two-year provisional license*
 - 2. no-cost 90-day extension of renewing license*
 - 3. probationary 90-day renewal*

Local Social Equity Policy

City Commission Policy 30.9, “Marijuana Social Equity” amended to:

- a. Removes terms and conditions that might open the policy to legal challenge*
- b. Creates additional documentation for renewal*
 - 1. demographic information on work force*
 - 2. Silver level social equity from State CRA*

Next Steps:

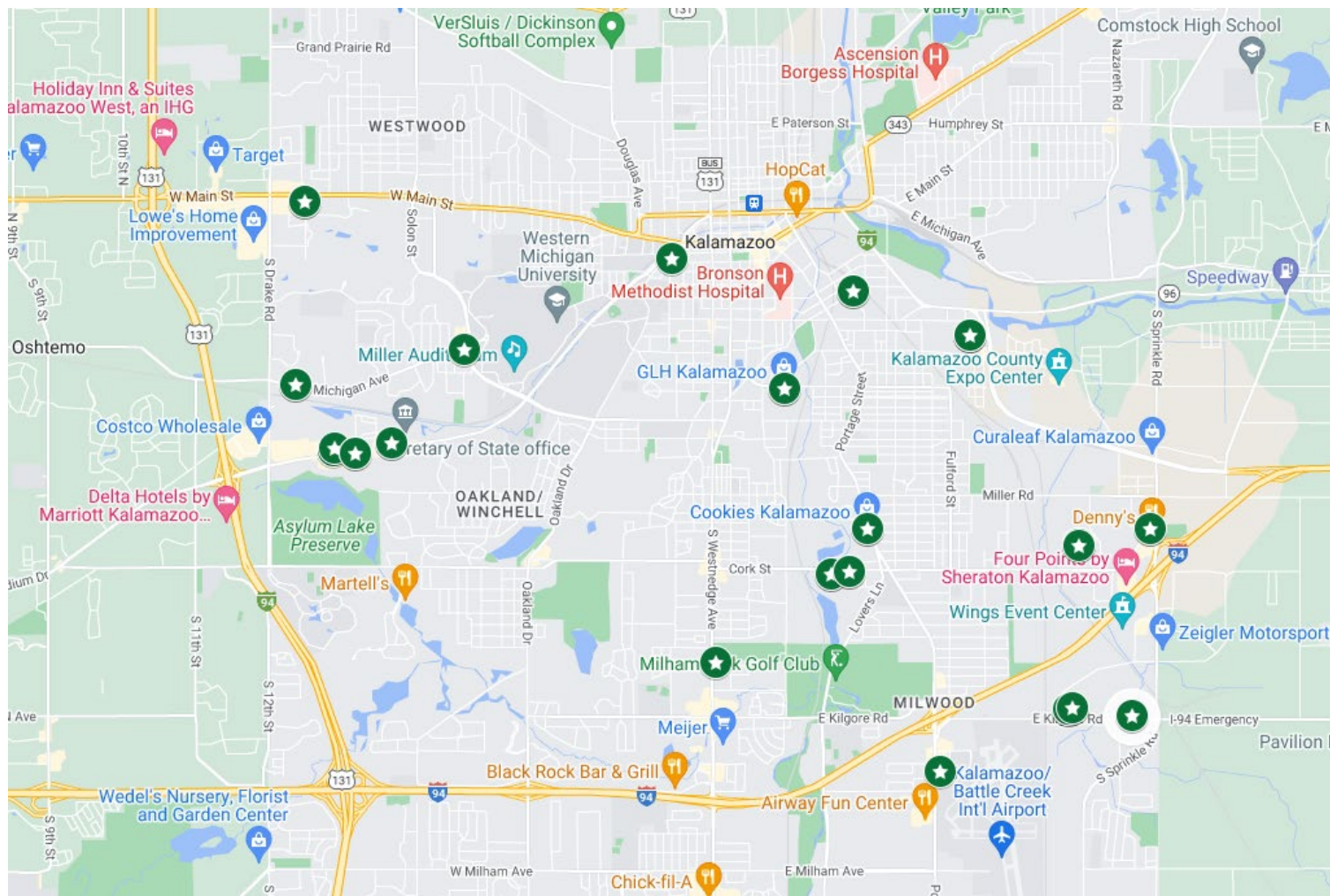
Ordinance amendment to Chapter 20B will return for introduction on July 18 with adoption on August 1, taking effect 10 days later, if approved.

Social Equity Policy will return for adoption on August 1, and will take immediate effect.

Questions?



Recommendation for the Cannabis Equity Initiative



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2022 Current Cannabis Businesses

(21 Businesses

40 Licenses)

Equity Initiative

State of Michigan

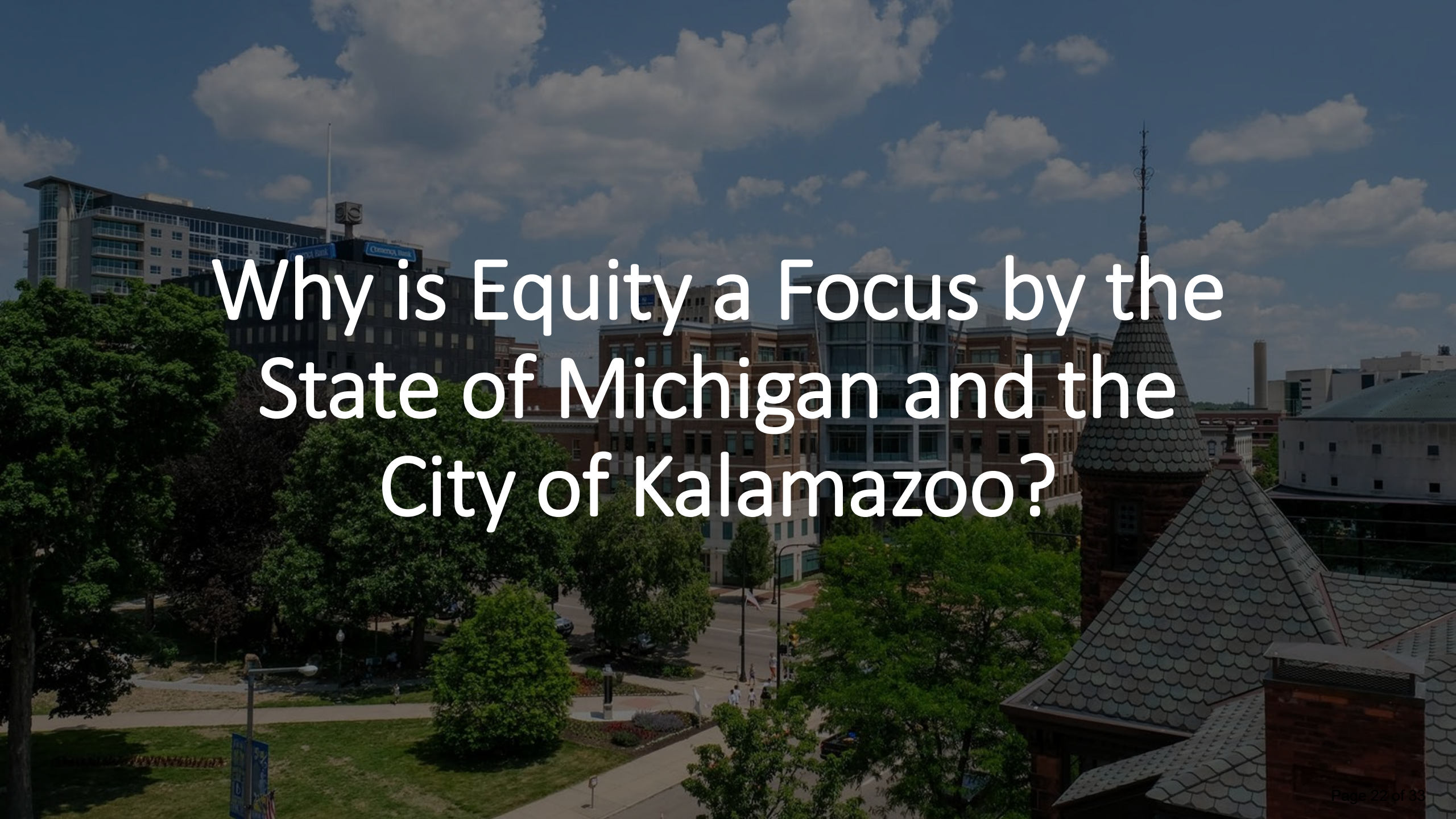
- The Social Equity Program is available as a provision under MRTMA (Michigan Regulation and Taxation of Marihuana Act) to promote and encourage participation in the cannabis industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities.

City of Kalamazoo

Marihuana Social Equity Policy 30.9

- The goal of this policy is to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact communities





Why is Equity a Focus by the State of Michigan and the City of Kalamazoo?



Equity Areas to focus on with assistance from the City of Kalamazoo

- Business Ownership
- Workforce Employment Opportunities
- Workforce Education Training Opportunities
- Community Education and Awareness
- Community Property Reinvestment

City Staff Equity Initiative Focus

- Provide business development ownership assistance to those who have been disproportionately affected by marihuana prohibition.
- Provide workforce opportunities to those who have been disproportionately affected by marihuana prohibition.
- Provide education and awareness to those who have been disproportionately affected by marihuana prohibition.

Proposed Business Equity Initiative Items

- Business Ownership (Micro-Business)
- Workforce Employment On the Job Training (OJT) (SPK Zip Codes) (OJT – Grants)
- College Workforce Training Grant (City Residents – 50%) (SPK Zip Codes – 100%)
- Micro-Business White Box Grant (\$25,000 to \$50,000)
- Cannabis Public Education, Health, and Safety Initiatives (Community Workshops)
- Community Outreach Initiative (Neighborhood Focus)

Revenues

- Unrestricted Revenue – State Tax Sharing
 - 2021 - \$168,008
 - 2022 - \$564,534
- Restricted Revenue – Permit Fees (net of refunds)
 - 2020 - \$211,00
 - 2021 - \$270,500
 - 2022 - \$305,000 (projected)

Restrictions

- State Restrictions:
 - A municipality may charge an annual fee of not more than \$5,000.
 - Can be used to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality.
- Internal Restrictions
 - 25% of all Marihuana revenues are reserved for social equity.
 - Total available through 2021 \$162,377 .
 - 2022 projected funds available \$217,384.

Proposed

- **Kalamazoo Cannabis Chamber Budget Recommendations (2023/2024/2025)**
 - **\$375,000 Equity Funds**
 - **2022 Total: \$375,000**
 - **Three-year goal: \$1.5 million**
- **New Staff Hire Recommendation**
 - **City General Fund - \$109,000**

RFP Recommended Activities for the Kalamazoo Cannabis Chamber

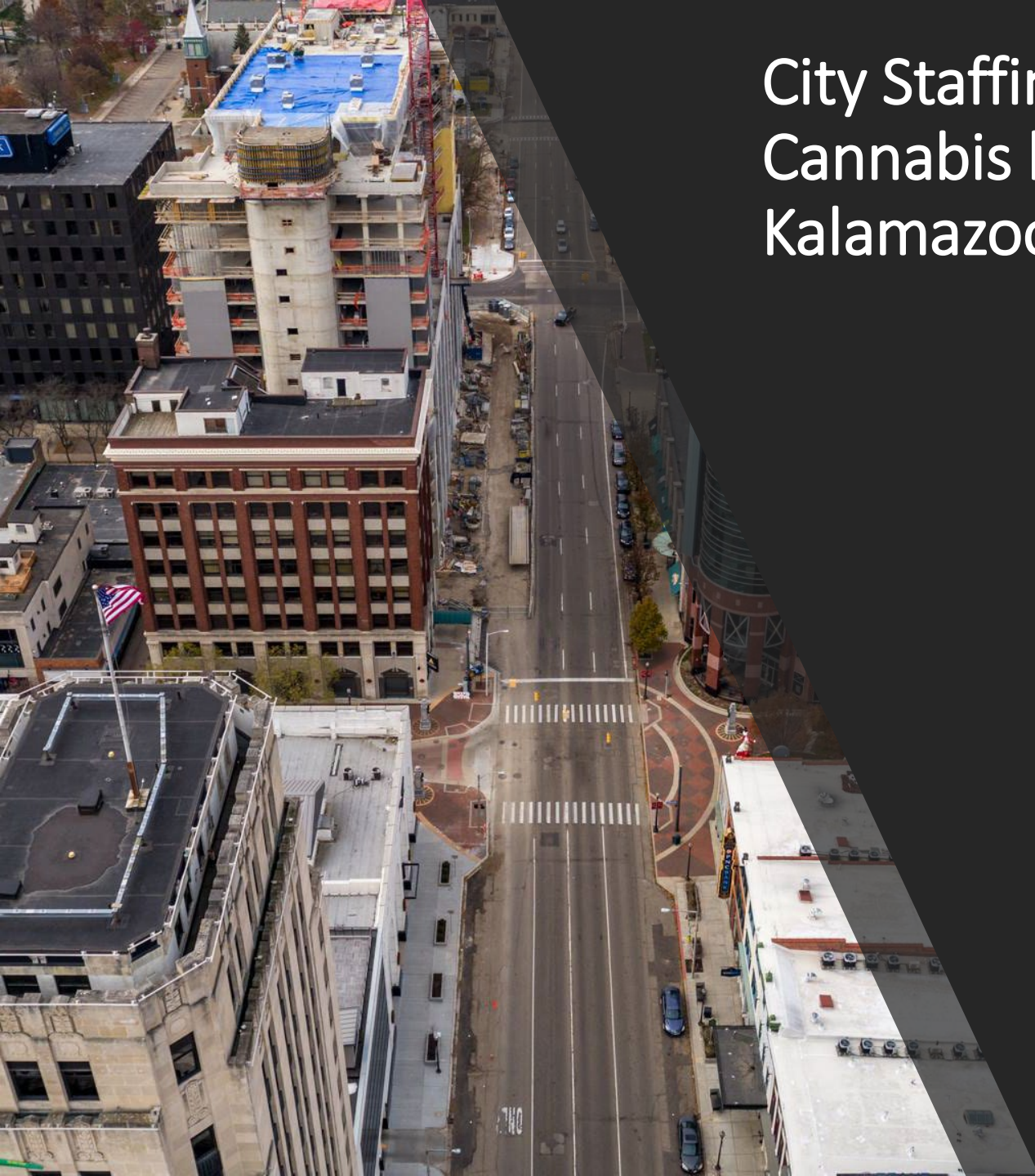
- The City's Funding support will be a three-year commitment (2023/2024/2025)
- Cannabis Organizational Membership and Membership Funding Development
- Marijuana Event Organizer Provider (Spring/Summer/Fall)
- Cannabis Community Yearly Workshops (Public and Business Outreach/Education)
- Cannabis Business Retention Services
- Neighborhood Microbusiness Development Focus





Cannabis RFP Proposed Requirements

- Works with the City Staff and the new Can-Do Kalamazoo Incubator Staff
- Develop a City of Kalamazoo Cannabis Equity Plan (Oversee Equity Initiative & Funding)
- Website Job Placement Assistance Services (Michigan Works!)
- Neighborhood Workforce Recruitment and Training
- City will require the RFP recipient to raise a match of funding to City-provided funding. (RFP recipient can use raised membership fees as the match – example: $\$5,000 \times 76 \text{ potential licenses} = \$380,000$.)
- The goal is to have a minimum of \$1 million in Community Equity Initiatives annually under the new Kalamazoo Cannabis Chamber. (The State of Michigan estimates \$3 billion in gross revenue.)

An aerial photograph of a city street, likely in Kalamazoo, Michigan. The image shows a multi-lane road with crosswalks, surrounded by various buildings. On the left, there's a large, multi-story building with a red brick facade and a flat roof. To its left, another building is under construction, with a blue tarp covering its roof. On the right, there's a modern building with a curved glass facade. The street is lined with trees and parked cars. The overall scene depicts an urban environment with ongoing development.

City Staffing to support working with the Cannabis business community and the new Kalamazoo Cannabis Chamber

- **Focus areas:** Community Engagement, Business Support, Industry Requirements, City Ordinance Business Support, City Municipal Codes, State and Federal regulations, City EDC Board Staff support, City Permit Renewal Process, Equity Initiative
- **The EDC Board:**
 - Provide financing and other assistance for commercial and industrial development projects.
- **The EDC Cannabis Committee:**
 - Provides oversight of the Marihuana Permit Renewal Process and makes recommendations to the EDC Board regarding permit approvals.

In conclusion, City Staff is Recommending:

- Budget Support for this initiative
- New Staff Support
- RFP for New Kalamazoo Cannabis Chamber





Questions