



Memorandum

To: City Council
CC: Manager Cole and Clerk Grindle
From: Michele Gagnon
Date: December 6, 2016
Re: Recreational Marijuana Prohibition Ban Ordinance

On November 8, 2016, Maine legalized the recreational use of marijuana. Title 7 M.R.S. c. 417 Marijuana Legalization Act (Attachment A) allows a municipality to regulate or prohibit the operation of Retail Marijuana Establishments (stores, cultivation facilities, product manufacturing facilities, and testing facilities) and Retail Marijuana Social Clubs (businesses selling marijuana for consumption on the premises) within the City.

The Marijuana Legalization Act (Question 1) passed by a narrow margin of 50.17% to 49.83% State-wide (0.34% difference). It was voted down in Ellsworth. The local vote was 46.1% in favor and 53.9% against it (7.8% difference). The official State recount started on December 5, 2016, and is expected to take up to six weeks to complete. It is my understanding that Question 1 would take effect 30 days after the governor proclaims the official results of the election. From there, the Maine Department of Agriculture, Conservation, and Forestry (ACF) has a maximum of nine months to adopt major substantive rules on matters such as, but not limited to, the concentration of THC and other cannabinoids per serving in any retail cannabis product. Therefore, it is fair to say that nothing is really happening for about 12 months.

Before determining whether cannabis stores, cultivation facilities, product manufacturing facilities, testing facilities, and social clubs could be safely and compatibly permitted in Ellsworth, Maine, we have an obligation to get educated on the impacts of these activities on the health, safety and welfare of the people of Ellsworth. We should:

- 1) Know if the Question 1 vote will stand;
- 2) Have the final rules;
- 3) Understand the impacts of the legalization on the local and regional public health and public safety resources;
- 4) Know how law enforcement officers will test for a marijuana DUI;
- 5) Have some perspective on the impacts legalization has on crime trends;
- 6) Consider the image the City wants to project and if this is consistent with the City's vision; and
- 7) Understand the impacts of legalization on the economy.

In the interim, the City should consider its options:

- 1) Take no action.** Wait to see how the recount develops, and if the vote stands, wait to see the outcome of the rule making.
- 2) Emergency Moratorium.** Enact an emergency moratorium for a period of 180 days with the ability to extend for additional 180-day periods if the problem still exists and reasonable progress is being made to alleviate the problem.
- 3) Prohibition Ordinance.** Enact a prohibition ordinance, without prejudice, with a sunset clause.

Option #1 is obviously not the most prudent approach.

There is a really fine distinction between option #2 – a temporary ban which would be a soft stance and option #3 – a potentially permanent ban which is a hard stance. The moratorium could set false expectation to potential entrepreneurs wanting to set up shop in Ellsworth in the foreseeable future while the prohibition sends a strong and clear message that the City is saying no, not yet.

As the Planning Office is getting inquiries, some from out of state, we are proposing that the Ellsworth City Council considers enacting option #3 - Recreational Marijuana Prohibition Ordinance (Attachment B). The intent of the prohibition ordinance is not to pass a value judgement. It is judicious to avoid the burden caused by repeated inquiries and to take a step back and let the dust settle. The proposed ban will give Ellsworth time to learn from the experience of others. And, in time, the City can diligently weigh the positives and negatives of a permanent ban versus allowing some or all of the uses. The allowance of any of these uses would necessitate the development of adequate licensing and land use regulation controls.

Proposed Motion:

Move to enact an ordinance entitled Recreational Marijuana Prohibition Ordinance.