



August 25, 2022

TO THE COUNCIL

Ladies and Gentlemen:

Re: Regulating Cannabis Dispensaries and On-Site
Consumption Lounges

Council Priority: Jobs and Economic
Development

Comprehensive Plan 2034 Initiative Area:
Fostering Prosperity + Opportunity

Transmitted herewith for your approval is legislation amending the Code of the City of Rochester to reflect New York State's Marihuana Regulation and Taxation Act (MRTA) and to provide "time, place and manner" regulations for Dispensaries and On-Site Consumption Lounges as authorized by MRTA. With this legislation, the City is adopting zoning requirements and business permit regulations for Dispensaries and On-Site Consumption Lounges prior to the State issuing the first round of Dispensary licenses, which may happen as early as mid-fall 2022.

It is proposed that the following changes be adopted:

- Amending the Zoning Code to define a new use (On-Site Consumption Lounge); identify which districts allow On-Site Consumption Lounges as of right or by special permit; regulate the hours of operation for On-Site Consumption Lounges and Dispensaries; and revise the definition of 'Manufacturing' to ensure that State-licensed Cultivators and Processors of cannabis fit within the definition.
- Amending Article II of Chapter 90 to require a business permit for Dispensaries and On-Site Consumption Lounges; to require security cameras and exterior lighting for both uses; to prohibit odors from being detected outside of the commercial spaces occupied by either use; and to require ventilation measures to prevent the migration of smoke from On-Site Consumption Lounges.

The legislation outlined above will minimize barriers to the cannabis industry while ensuring businesses are a cohesive part of our communities.

Respectfully submitted,

Malik D. Evans
Mayor



ATTACHMENT 1

BACKGROUND

There is widespread recognition that cannabis prohibition and enforcement of the cannabis prohibition has and continues to have a disproportionate negative impact on people of color. Across the country, cities and states where cannabis is now legal are attempting to address those impacts by creating social equity programs to ensure that people and communities harmed by the so called “war on drugs” have access to opportunities in the formal industry. These programs leverage the cannabis industry to create minority-owned businesses, jobs, and tax revenue dedicated to strengthen specific communities.

Experiences from other cities and states identify many challenges for a successful equity program, as well as difficulty transitioning existing informal cannabis businesses to the formal market. One such challenge is that cannabis remains illegal at the federal level. This presents significant barriers to entry. For example, cannabis business owners are not eligible for traditional business support services or grants; they cannot do business with federally-insured banks; and they cannot use business expenses as a federal tax deduction.

MRTA and the State are attempting to center equity in cannabis licensing. MRTA was signed into law on March 31, 2021, legalizing adult use cannabis in the State of New York. MRTA provides the general framework for licensing with a goal to issue 50% of licenses to qualifying equity applicants. 40% of the tax revenue after covering the cost of the program will be directed into programs supporting the communities that were most impacted by disproportionate enforcement of cannabis prohibition. The first round of dispensary licenses will be awarded to equity applicants only, and those awarded will be eligible for commercial space funding through the \$200M Social Equity Cannabis Investment Program.

The State is currently developing regulations to further define licensing and requirements for adult use cannabis businesses. MRTA and the State regulations will largely govern how these businesses operate. However, the State allows cities to regulate the “time, place, and manner” of Dispensaries and On-Site Consumption Lounges, as long as the regulation does not render the operation of those businesses “impracticable.” Essentially, the State has the authority to review local cannabis regulations to determine whether they are too restrictive.

The City of Rochester opted in to the full set of establishments allowed to be licensed under MRTA in order to maximize the economic opportunities and to further the State law’s intent to make amends for the harm caused by the “war on drugs.” On December 14, 2021, Mayor-Elect Evans announced the creation of a task force to consider, research, and recommend policies that the City can adopt to support the success of the cannabis industry in Rochester. The Cannabis Business Preparation Committee (CBPC) and its subcommittees met 13 times between January and June. Members conducted extensive research and collaboration, including exploring the experiences of other cities and states with adult use cannabis businesses, and maintaining ongoing dialogue with the NY State Office of Cannabis Management, the agency responsible for crafting and refining the State regulations.

The CBPC also conducted extensive outreach. The committee held four public meetings: a virtual information and listening session (April 14, 2022); and three meetings to discuss ideas for zoning and regulations on May 25 (Arnett Library), May 31 (Gantt R-Center) and June 2 (virtual). CBPC members attended various local cannabis industry events to learn more about the industry. Councilmember Mike Patterson and Jennifer Byrnes of the Central Library Business Insight Center (BIC) led an effort to engage members of the existing industry through attendance at a legacy cannabis stakeholder group. The City and the BIC partnered on a cannabis business support open house on July 13th, and are organizing a cannabis workforce development event for October 19th.

The CBPC zoning and regulations recommendations are the foundation for the legislation attached. Other recommendations will be discussed at City Council at a later date.