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## **Marijuana will be legal in Michigan next week**

Updated Nov 26, 3:16 PM; Posted Nov 26, 3:16 PM By [Amy Biolchini](#) [abiolch1@mlive.com](mailto:abiolch1@mlive.com)

Marijuana flower inside a display glass at Utopia Gardens, a medical marijuana provisioning center on Detroit's near east side, Sept. 12, 2018. (Tanya Moutzalias | [MLive.com](#)) (*Tanya Moutzalias*)



Marijuana will be legal in Michigan in 10 days.

The Board of State Canvassers certified the results of the Nov. 6 election with a unanimous vote at its meeting Monday, Nov. 26.

Among the results: Proposal 1, the marijuana legalization initiative, passed with 56 percent of Michigan voters saying "yes."

Under state law, Proposal 1 takes effect as the Michigan Regulation and Taxation of Marihuana Act 10 calendar days after the election results have been certified.

That means Thursday, Dec. 6, is legalization day in Michigan, said David Harns, spokesman for Department of Licensing and Regulatory Affairs.

### [Michigan Legalizes Recreational Marijuana - Now What?](#)

On Dec. 6, adults over the age of 21 can possess marijuana in public and can consume marijuana in the privacy of their homes.

Driving under the influence of marijuana is illegal and remains illegal on Dec. 6.

The state has one year to develop rules for a commercial marijuana industry in the state, and has to accept the first business license applications in December 2019.

Some Michigan prosecutors have been dismissing low-level marijuana cases since the results of the Nov. 6 election, though the law has yet to take effect. A number of Michigan communities are also choosing to ban marijuana businesses until the state develop regulations.

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## **What happens in the workplace with legalized recreational marijuana**

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By Amy Biolchini | [abiolch1@mlive.com](mailto:abiolch1@mlive.com) | Posted November 16, 2018 at 12:27 PM



Marijuana will soon be legal in Michigan for adults 21 and over to use -- but it won't mean penalties for marijuana use go away. While police can't arrest you for carrying a joint or vape pen in your pocket, your employer could fire you for it.

A number of large Michigan employers opposed Proposal 1 during the campaign -- including Dow Corporation, Haworth and Gordon Food Services. Some, like DTE Energy, made it clear they would not be

changing their drug policies.

Read on for some common questions and answers about marijuana and the workplace.

**Q: Does this mean there are no more drug tests for marijuana?**

A: No. Employers are still allowed to drug test potential employees for marijuana use during the hiring process, as well as to test current employees.

However, Proposal 1 does not require employers to drug test.

**Q: Can I still get fired for weed?**

A: Yes. If your employer has a zero-tolerance policy regarding drugs and you break it, you can be fired.

**Q: But why? Isn't marijuana legal in the state of Michigan?**

A: Voters did pass Proposal 1 by a margin of 56 percent -- but the new law does not prevent employers from having zero-tolerance drug policies.

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Some employers are federal contractors, and others like universities, accept federal money and grants. As marijuana is still a Schedule 1 substance and still illegal federally, any company or nonprofit doing business with the federal government will be abiding by their rules. Those include the Controlled Substances Act, the Drug Free Workforce Act and the Drug-Free Schools and Communities Act.

Additionally, many companies may choose to keep or switch to a firm zero-tolerance drug policy now that marijuana has been legalized for insurance purposes.

"I've had a couple of employers come to me already," said Nikole Canute, a lawyer with Mika Meyers in Grand Rapids. "If employers want to take a more forgiving approach when it comes to marijuana, and allow for it in their policies, they could run up against insurance claim denials."

Zero-tolerance drug use policies would be the simplest way forward for employers, Canute said.

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**Q: I have my medical marijuana card. Does that protect me from getting fired?**

A: No.

**Q: But I thought medical marijuana was also legal in Michigan?**

A: Voters did legalize medical marijuana in 2008.

But a Sixth Circuit Court of Appeals decision has allowed employers the ability to fire or refuse to hire someone due to their medical marijuana use.

This could change in the future, as there is dissension between courts as to what is appropriate, said Alex Leonowicz, a lawyer at the Cannabis Industry Group at Howard & Howard. The U.S. Supreme Court may have to decide the law of the land in this case, as medical marijuana is now legal in 33 states.



**Q: Can my employer request a drug test after a workplace accident?**

A: Only if there is reasonable suspicion of marijuana use, Canute said.

The Occupational Safety and Health Administration requires there to be a suspicion of use, as random drug testing after workplace incidents created a chilling effect on the reporting of accidents and injuries, Canute said.

**Q: I work at a factory. What are the chances my employer has a zero-tolerance drug policy?**

A: Highly likely. Employees who work with heavy machinery will continue to be under heavy scrutiny for workplace safety.

"I represent a lot of manufacturing companies. You're going to have a hard time finding an employer allowing their workers to run machinery while high," Canute said.

Other employers that are more relaxed -- like start-up companies -- may have more tolerant policies, Leonowicz said.

"Blue collar jobs -- they tend to be less OK with cannabis usage," Leonowicz said. "You're operating heavy machinery; there's a potential to get injured."

**Q: I have a minor marijuana-related crime on my record and I don't want it to keep me from getting hired. Now that marijuana is legal, will that go away?**

A: Nothing will happen to your criminal record unless you take action.

Expunging your record of misdemeanor marijuana crimes is possible if you haven't had any subsequent offenses, Leonowicz said.

"There's a mechanism to expunge after a certain amount of time has passed if you don't have subsequent offenses you can petition a court to have your public record expunged," Leonowicz said.

However, if you have had subsequent offenses, you may want to call your legislator, Leonowicz said.

"There will need to be a separate law put in so that people who have had subsequent offenses can get their records expunged," Leonowicz said.

Also, even if you pay to get your record expunged, the crime will still appear in a state database that the police use.

Governor-elect Gretchen Whitmer has already indicated she will consider legal options to help people convicted of marijuana crimes early in her term.

"I think that the people of Michigan have said that for conduct that would not be considered legal no one should bear a lifelong record for that conduct," Whitmer said to reporters in Detroit the day after the election.

**Q: Could I get high on the job if I work at a marijuana business?**

A: Are bartenders allowed to get drunk at work?

Marijuana businesses are just that -- a business.

State regulations for licensed medical marijuana businesses prohibit employees from using marijuana at the facilities -- and it's likely that rule would be extended to future recreational businesses as well.

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## **The do's and dont's of driving with marijuana in Michigan**

By Amy Biolchini | [abiolch1@mlive.com](mailto:abiolch1@mlive.com) | Posted November 23, 2018 at 07:40 AM | Updated November 23, 2018 at 10:14 AM

Michigan State Police and DNR Conservation Officers search M-13 near the Crow Island State Game Preserve in Zilwaukee Township on June 14, 2018. (Jacob Hamilton | MLive.com file photo)



Recreational marijuana was legalized in Michigan Nov. 6, and the law will take effect Dec. 6.

However, driving while high remains illegal in Michigan.

What will change after Dec. 6 is the ability to be in possession of up to 2.5 ounces of marijuana while driving.

Here are some common questions and answers to driving with marijuana in Michigan.

**Q: Can I smoke marijuana in my car?**

A: Not when you're driving.

Any form of marijuana consumption -- from smoking to eating edibles -- is still illegal while driving.

"I don't think people appreciate the risk that can come with just smoking a joint and getting behind the wheel," said Alan Kennington, an injury lawyer from South Carolina with national expertise in the impacts of marijuana legalization on car insurance. "It does affect your ability to drive and I think that's something the general public does not have an appreciation for at this time."

**Q: Can I smoke marijuana as a passenger in a car?**

A: No. That's also illegal.

**Q: Can I smoke in my car if it's turned off?**

A: Lawyers are advising to treat marijuana consumption like alcohol.

"Treat it like alcohol," said Alex Leonowicz, leader of the Cannabis Industry Group at Howard & Howard. "The idea behind the new ballot initiative is for home consumption."

**Q: Can I drive around with weed in my car?**

A: Yes.

While consuming marijuana is illegal while driving, transporting marijuana and marijuana products is not illegal. Individuals can have up to 2.5 ounces of marijuana on their person.

"A person can have marijuana and marijuana accessories in the passenger area of a vehicle, so long as the driver is not consuming it, and the driver and any passenger is not smoking it," said Doug Mains, a lawyer with Honigman Miller Schwartz and Cohn.

However, lawyers caution that drivers should keep marijuana products in a secure location in their vehicle, like a trunk, and ensure that products are sealed to avoid confrontation with police.

"It would need to be sealed. You do not want to give the appearance that you have recently used it," Kennington said.

While there are no stipulations in Proposal 1 for how recreational marijuana should be transported, the Michigan Medical Marijuana Act restricts patients and caregivers to how they can transport marijuana-infused products, Mains said.

**Q: Can I transport plants in my own car?**

A: Yes.

**Q: If I leave my weed in the car and my teenager borrows the car, can they get in trouble for possession?**

A: Most likely.

Similar to the way the law treats firearms or minors found with alcohol, the concept of "constructive possession" will also apply to marijuana, Leonowicz said.

"There's going to be an assumption that it's yours," Leonowicz said. "Treat it the same way you'd treat prescription drugs or alcohol."

**Q: Are there additional penalties for marijuana-impaired driving if there are children in the vehicle?**

A: Yes and no, Mains said.

Driving while under the influence of marijuana remains illegal -- and there is an existing law that addresses operating a vehicle under the influence with passengers under the age of 16 that still applies.

The penalty for breaking that law--- [MCL 257.625\(7\)](#) --- still applies, Mains said.

**Q: What's going to happen to my car insurance if I get in trouble?**

A: Experts say a driving under the influence charge will cause a driver's insurance rates to go up.

Kennington, a personal injury lawyer from South Carolina with national expertise in the impacts of marijuana legalization on car insurance rates, said how Michigan chooses to regulate the penalties for impaired driving will have an impact.

"If they treat it similar to alcohol, then it could lead to an automatic suspension of a license -- and then you could go into high-risk insurance when you get your license back," Kennington said. "That would make premiums go through the roof."

**Q: How are police going to be enforcing the law?**

A: The same way they do now: police officers are looking for signs that a driver is impaired.

After police pull you over, if they suspect you are too impaired to drive they will give you field sobriety tests -- similar to what they do if they suspect alcohol use.

If you fail a field sobriety test, the officer will ask that you undergo a blood test if he believes you should face charges for driving under the influence.

**Q: What if I refuse to take a blood test to detect THC?**

A: The police can still suspend your driver's license for refusing to submit to a chemical test due to Michigan's "implied consent" law, Mains said.

"Effectively, by operating a vehicle on public roadways and being arrested for certain offenses, a driver implies consents to have, among other things, their blood tested for alcohol or controlled substances," Mains said.

**Q: Is there a breathalyzer for weed?**

A: Police in Michigan have been testing a roadside device that tests saliva for marijuana intoxication in five counties during the past year. The results of the pilot project won't be available until 2019.

Critics say there is no test to show whether a person used marijuana an hour ago or two days ago, due to the persistence of the cannabinoids in the human body.

"We're in a weird spot between an insufficient testing mechanism and more population that's using the product," Leonowicz said.

**Q: Is there a legal limit for marijuana -- like 0.08 for alcohol?**

A: There is no legal limit for marijuana intoxication in Michigan. Any level of the active chemical in marijuana -- tetrahydrocannabinol (THC) -- detected in the blood stream is enough for authorities to consider charges of driving under the influence.

However, Michigan officials could consider setting such a limit in the future.

In Colorado, drivers with five nanograms of active THC in their blood can be prosecuted for driving under the influence.

**Q: Can I drive to Canada with my weed?**

A: No. Marijuana remains illegal federally. All U.S. borders are policed by U.S. Customs and Border Protection, which abide by federal law.

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**Legal marijuana has communities already opting out and here's why**

Updated Nov 14; Posted Nov 13 By [Amy Biolchini](#) [abiolch1@mlive.com](mailto:abiolch1@mlive.com)

Marijuana plants at HiFi Farms, about a half hour outside of Portland, Oregon, Sept. 18, 2018. (Tanya Moutzalias | MLive.com file photo)

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In the 3,400-person town of Essexville just north of Bay City on the Saginaw River, you are never more than 1,000 feet away from a school.

Inconvenient if you're trying to capitalize on the legal recreational marijuana market.

The new Michigan Regulation and Taxation of Marihuana Act prevents any recreational marijuana business from opening up within 1,000 feet of schools.

That means legally, recreational marijuana businesses are prevented from opening up shop in Essexville at all, said City Manager Dan Hansford. Nevertheless, the city council voted to ban marijuana businesses entirely, Hansford said.

The new recreational marijuana law won't take effect until December. But with less than a week since the election, Michigan community leaders are already taking action and have the opportunity to shape the industry's future. Municipalities could reverse their decisions in the future after the state issues regulations.

**Medical industry could foreshadow response**

Michigan's response to the medical marijuana industry could be a harbinger for recreational marijuana businesses.

To date, 108 communities in Michigan have opted out of the medical marijuana program, according to state figures. In all, about three-quarters of Michigan governments have chosen

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to not participate in the medical marijuana program, according to a survey from the University of Michigan.

That's far different than the will of the people: 56 percent of Michigan voters said "yes" to recreational marijuana at the polls Tuesday, Nov. 6.

The new law allows residents to challenge their city council or township board decision by placing a referendum on a general election ballot.



Michigan communities grapple with medical marijuana ahead of legalization vote

Michigan's smallest governments would play a defining role in shaping the legal marijuana industry.

## Swift response

As voters went to the polls last week, ordinances were already being drafted in some communities to limit the commercial spread of marijuana stores.

Like in Solon Township near Traverse City, where [trustees had passed a ceremonial resolution](#) before the election opposing recreational marijuana and now plan to pass an official opposition ordinance.

Cities and townships can ban or place limits on retail stores, commercial grow operations and processing facilities -- but cannot prevent individuals from growing in their homes or consuming on their own property.

On Election Night, the Portage City Council had its first reading of an ordinance to opt out. The council will take its official vote Nov. 20.

The day before the election, Monroe City Council [passed a resolution opting out](#). Monroe is home to one of the marijuana opposition campaign spokesmen: former Michigan Senate Majority leader Randy Richardville.

Many community leaders feel the need to opt out now to allow themselves time to determine where they want to allow marijuana businesses in the future.

"Given the potential this legislation has to fundamentally alter the community, city administration cannot stress enough the importance of careful analysis, as to potential impacts on land use considerations and the need for thoughtful deliberation, as the community moves forward," Monroe City Manager Vince Pastue wrote to the Monroe City Council.

"Determining what marijuana establishments will be considered; how many and where; how close to a school, a park, a church or a residential area?"



The opposition group to Proposal 1 -- Healthy and Productive Michigan -- vowed the day after the election to continue to fight recreational marijuana at the local level.

Michigan voters passed Proposal 1 with nearly 56 percent of the vote.

## **Controlling zoning**

Two days after the election, the Cedar Springs City Council [passed an ordinance to opt out](#).

Cedar Springs City Manager Mike Womack said it's difficult for a city structure its own recreational marijuana program without knowing what the state will require businesses to do.

"Until the state issues regulations we wouldn't allow it," Womack said.

Womack is a former criminal defense attorney, and studied the impact of recreational marijuana taxes in Washington and Colorado for his master's thesis.

"We don't want marijuana shops opening up in residential districts," Womack said, explaining the council isn't necessarily anti-marijuana. "They just want to control the zoning aspect. We want industrial grows in the industrial sector, and we want commercial businesses in commercial districts."

## **Sense of urgency**

State regulators with the Department of Licensing and Regulatory Affairs have a year after the law takes effect to develop rules. After that time, they're required by law to start issuing business licenses.

For Michigan communities who want to opt out of the new recreational marijuana program -- there's a sense of urgency to pass local bans before the state starts taking license applications.

## **Michigan officials face deadline to launch commercial marijuana**

The clock starts ticking once the law takes effect, likely in mid-December.

Plainfield Township voted to ban recreational marijuana businesses at its Monday, Nov. 12 meeting.

"Unfortunately, it is unclear from the text of the MRTMA when precisely the state will begin accepting applications for licenses (it must do so within 12 months)," Plainfield Township's lawyer, Jeff Sluggett, [wrote in a memo](#) to the Board of Trustees. "This is an important

'unknown' because our ability to enforce and rely on an ordinance prohibiting marijuana establishments must be 'in effect' when the application is filed with the state of Michigan."

The small town of [Pinckney also voted](#) to opt out of recreational marijuana businesses at its village council meeting Monday, Nov. 12.

Opting out of recreational marijuana is either completed or well underway in at least six Michigan communities.

Tuesday night, [Jackson's City Council](#) and the Northfield Township Board of Trustees will consider taking similar steps.

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## **Governor-elect Whitmer will consider pardons for marijuana offenders**

Updated Nov 7; Posted Nov 7 By [Amy Biolchini](#) [abiolch1@mlive.com](mailto:abiolch1@mlive.com)

Michigan voters said yes to legalizing marijuana Tuesday.

Overseeing the new industry will be the state's next governor, Democrat Gretchen Whitmer.

The ballot proposal did not provide for criminal record expungement.

However, Whitmer said she'll consider using her executive power to grant clemency to jailed marijuana offenders early into her term.

"I think that the people of Michigan have said that for conduct that would not be considered legal no one should bear a lifelong record for that conduct," Whitmer said to reporters in Detroit Wednesday morning.

### [Gretchen Whitmer on legal marijuana in Michigan](#)

Whitmer said she'll be working with the new attorney general, Democrat Dana Nessel, to develop thoughtful regulations to govern the new industry.

Proposal 1 passed in Michigan with 55.75 percent of the vote, with 96.5 percent of precincts reporting as of 11 a.m. Wednesday.

In other states where recreational marijuana has been legalized, pardons for marijuana crimes have been limited.

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In Colorado where marijuana has been legal for six years, Gov. John Hickenlooper [pardoned seven people in 2017](#) convicted of marijuana possession crimes who applied for clemency.

This year Hickenlooper's administration proactively identified 40 prisoners serving sentences for only marijuana crimes -- but has yet to issue his decision on whether all of them are eligible to apply for clemency.

In Oregon, one person has been [granted clemency](#) for a marijuana conviction under Gov. Kate Brown. Voters agreed to legalize there in Nov. 2004.

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## **Cedar Springs OKs ordinance banning marijuana businesses**

Updated Nov 12; Posted Nov 12 By [Madison Bennett](#) [mbennet2@mlive.com](mailto:mbennet2@mlive.com)

The Cedar Springs City Council has approved an ordinance that prohibits businesses selling marijuana.

The City Council approved the ordinance during a meeting on Thursday, Nov. 8. Prior to its approval, the council met in a special meeting on Thursday, Nov. 1, to discuss a draft.

The ordinance states that a "marijuana establishment or facility that is operated for profit or not for profit" is considered to be unlawful and is prohibited from being established or operating within the city.

Michigan voters approved Proposal 1, which made marijuana legal for adult use in the state, leaving municipalities with the decision on whether or not to allow related-businesses to operate in their area.

"It is also important to note that the city only banned commercial sales," City Manager Mike Womack said. "All other rights under Proposal 1 remain intact in the city and the city has zero desire to curtail those rights."

According to Womack, the city had "surprisingly" little feedback from the public about allowing marijuana commercial facilities in the city or not.

"I'd like to think that is because the citizens are largely satisfied with how the council and government are running things and trust us to make good and ethical decisions," Womack said.

Although the ordinance has been approved, Womack added that it could be changed in the future once the state creates regulations.

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"This vote is not necessarily indicative of the city's long-term intent on marijuana but rather the city feels it necessary to take a bit of a wait-and-see attitude with how the state is planning on regulating the industry prior to potentially allowing it to be sold in the city," he said.

Womack said that the council is primarily worried about the zoning aspect of commercial marijuana and would like to see the limitations, if any, it could put on the city.