



MEDIA RELEASE

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Implementation of City Charter Amendment Decriminalizing Marijuana Pending Circuit Court Decision

City Manager Greg Sundstrom reports that the City will await the decision of Kent County Circuit Court Judge Paul Sullivan to clarify the legality of the recent City Charter amendment approved by voters.

After consulting with the City Attorney, Police Chief, and City Commission, the City Manager concluded that he will delay issuing an Executive Order to the Police Chief to begin issuing civil infraction tickets for certain marijuana offenses. This decision is intended to protect the interest of City government and the citizens who are seeking to enjoy the benefits of the recently approved City Charter amendment. The decision to delay came following a scheduling conference with Kent County Circuit Court Judge Paul Sullivan and issuance of a scheduling order expediting the pending lawsuit. The Circuit Court has scheduled final arguments for April 24, 2013, and a decision is expected soon after that date.

“To avoid confusion for citizens seeking to comply with current law and the new City Charter amendment, the City has opted to wait two months for a clarifying decision”, stated the City Manager. He emphasized that he has very clear direction from the City Commission to respect the outcome of the ballot proposal and implement the City Charter amendment at the earliest opportunity. “The City Commission has not wavered in its support for respecting the will of the voters to change how marijuana offenses are enforced by the Grand Rapids Police Department”, reported the City Manager. Similarly, the City Commission has given clear direction to City Attorney Catherine Mish to vigorously fight the lawsuit brought by Kent County Prosecutor William Forsyth. “There are many unresolved legal issues surrounding the recent City Charter amendment. While the direction from the City Commission to implement the City Charter amendment is clear, the City Manager is seeking to implement the amendment and comply with State law”, stated the City Attorney.

Background

At the November 6, 2012, general election, a majority of voters approved a City Charter amendment decriminalizing marijuana by creating a local civil infraction offense. On November 30, 2012, the Kent County Prosecutor challenged the City Charter amendment in the Kent County Circuit Court. On December 4, 2012, the Court issued a Temporary Restraining Order prohibiting the City from implementing the new City Charter amendment concerning marijuana. After hearing legal arguments from the City, on January 23, 2013, the Kent County Circuit Court lifted the Temporary Restraining Order.

Subsequently, the City Manager has developed an Executive Order to direct Grand Rapids Police Chief Kevin Belk to begin to issue civil infraction tickets for marijuana offenses. The City Manager stated that he will not issue his Executive Order until the Circuit Court has determined that the City Charter amendment and his Executive Order are compliant with State law.

Pending an affirmative legal ruling by the Circuit Court, the City Manager will direct the Chief of Police to implement the City Charter amendment approved by the voters at the earliest opportunity following the Court's decision. The City Manager's proposed Executive Order is as follows:

- The Grand Rapids Police Department will continue enforcing State law concerning manufacture of marijuana, possession with intent to deliver marijuana, and maintaining a drug house. These matters will continue to be referred to the Kent County Prosecutor.
- When the Grand Rapids Police Department encounters an individual with over 2.5 ounces of marijuana in his/her possession, the Grand Rapids Police Department shall refer the matter to the Kent County Prosecutor for handling pursuant to State law.
- When the Grand Rapids Police Department encounters an individual with marijuana in his/her possession and some other State law prosecutable offense (such as armed robbery, assault with intent to murder, or felony drunk driving) arises from the same incident, the Grand Rapids Police Department shall refer the matter involving marijuana to the Kent County Prosecutor for handling pursuant to State law.
- When the Grand Rapids Police Department encounters an individual with marijuana in his/her possession and that individual is found to have four prior convictions involving controlled substances, the Grand Rapids Police Department shall refer the matter involving marijuana to the City Attorney who will determine if the Grand Rapids Police Department should issue the individual a municipal civil infraction ticket or refer the matter to the Kent County Prosecutor for handling pursuant to State law.
- When the Grand Rapids Police Department encounters an individual with marijuana in his/her possession in other situations, wherein State law charges of use or possession of marijuana would previously have been issued, and none of the above factors were triggered, the Grand Rapids Police Department shall issue the individual a written citation for a municipal civil infraction. The individual would not be arrested for the marijuana offense.
- In all situations when the Grand Rapids Police Department finds an individual with marijuana in his/her possession, in any quantity, the Grand Rapids Police Department shall confiscate the marijuana as contraband.

Recall, the City Charter amendment only applies to the Grand Rapids Police Department. Other law enforcement agencies operating in the City of Grand Rapids do not enforce the City Charter and cannot issue municipal civil infraction tickets. This means that other agencies such as the Michigan State Police, Kent County Sheriff's Department, and the college police departments for Grand Rapids Community College and Grand Valley State University will continue to enforce State laws concerning marijuana.

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