



# Rochester Hills

1000 Rochester Hills Dr.  
Rochester Hills, MI 48309  
(248) 656-4600  
Home Page:  
www.rochesterhills.org

## Master

**File Number: 2010-0297**

**File ID:** 2010-0297

**Type:** Administration

**Status:** To Council

**Version:** 3

**Reference:** 2010-0297

**Controlling Body:** City Council  
Regular Meeting

**File Created Date :** 07/14/2010

**File Name:** Medical Marihuana Moratorium

**Final Action:**

**Title label:** Request for Approval of a Twelve-Month Extension of the Moratorium for Medical Marihuana

**Notes:** 07/19/2010 CC Reg Meeting - RES0174-2010

**Sponsors:**

**Enactment Date:**

**Attachments:** Agenda Summary.pdf, PC memo.pdf, Attorney Letters.pdf, Sample Ordinances.pdf, Minutes PC 060711.pdf, 011011 Agenda Summary.pdf, Minutes PC 110410.pdf, Minutes PC 120710.pdf, Memo Anzek 120310.pdf, Med Mari Resolution PC.pdf, Final Letter Granholm 120710.pdf, 071910 Agenda Summary.pdf, Memo Mayor 071410.pdf, July 2010 Medical Marihuana Article.pdf, 071910 Resolution.pdf, 011011 Resolution.pdf

**Enactment Number:** RES0010-2011

**Contact:**

**Hearing Date:**

**Drafter:**

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council Regular Meeting	07/19/2010	Adopted by Resolution				Pass
2	City Council Regular Meeting	01/10/2011	Adopted by Resolution				Pass
3	City Council Regular Meeting	06/20/2011					

### Text of Legislative File 2010-0297

**Title**

Request for Approval of a Twelve-Month Extension of the Moratorium for Medical Marihuana

**Body**

**Whereas**, on December 4, 2008, the Michigan Medical Marihuana Act ("the Act"), MCL 333.2642 et seq, became effective; and

**Whereas**, the stated purpose of the Act is "to allow under State law the medical use of marihuana," to provide protections for the medical use of marihuana, to provide for a system of registry identification cards for qualifying patients and primary caregivers, to impose a fee for registry application and renewal, to provide for the promulgation of rules, to provide for the administration of this Act, to provide for the enforcement of this Act, to provide for affirmative defenses, and to provide for penalties for violations of the Act; and

**Whereas**, the Act allows a qualifying patient who has been issued and possesses a registry identification card to possess up to 2.5 ounces of usable marihuana for medical use, and if the patient has not specified that a primary caregiver will be allowed to cultivate marihuana for the patient, to cultivate up to 12 marihuana plants in an enclosed, locked facility for medical use; and

**Whereas**, the Act allows a primary caregiver to assist up to 5 qualifying patients to whom the caregiver is connected through the State Department of Community Health with the use of medical marihuana, provided that the caregiver does not possess more than 2.5 ounces of usable marihuana for each patient and cultivate more than 12 marihuana plants for each patient in an enclosed, locked facility; and

**Whereas**, the Act does not specify the location(s) where a qualifying patient or primary caregiver may lawfully grow or cultivate marihuana; and

**Whereas**, the Act does not specify the manner or location in which medical marihuana may be lawfully dispensed or delivered to a qualifying patient by the patient's caregiver; and

**Whereas**, the Act does not provide for medical marihuana growing facilities, or for the regulation of medical marihuana growing facilities; and

**Whereas**, the Act does not provide for medical marihuana dispensaries or clubs, or for the regulation of medical marihuana dispensaries or clubs; and

**Whereas**, law enforcement officials have expressed concern over the adverse impact unregulated medical marihuana growing facilities and dispensaries may have upon the community; and

**Whereas**, recent law enforcement actions, court decisions, lawsuits, news reports, and scholarly analyses of the Act have identified various inconsistencies, conflicts and vagaries within and relating to the Act; and

**Whereas**, the Rochester Hills Planning Commission held a medical marihuana workshop meeting on November 4, 2010, and at its meeting on December 7, 2010, the Planning Commission adopted a resolution recommending that the City Council extend the moratorium regarding medical marihuana land uses for an additional 6 months to allow for further study and analysis by the Planning Commission

**Whereas**, on July 19, 2010, the Rochester Hills City Council adopted a 180-day moratorium on all land uses relating to the medical use of marihuana in the community and directed the Planning Commission to study, deliberate and recommend to the City Council whether and to what extent the City should regulate medical marihuana land uses, activities, businesses or facilities; and

**Whereas**, during that six-month period, the Michigan Legislature did not revisit and amend the Act to address the current Act's shortcomings and render the Act more workable for local government and the general public to provide a framework enabling local communities to properly, safely and consistently implement the intentions of the Michigan Medical Marihuana Act approved by voters in November 2008, and the City Council therefore extended the moratorium another 6 months until July 15, 2011; and

**Whereas**, the State Legislature has still not amended the Michigan Medical Marihuana Act to provide the framework to allow the Planning Commission to make a recommendation about medical marihuana land uses; and

**Whereas**, letters recently issued by the U.S. Attorneys' offices in various states have created uncertainty over the Federal Government's stance on the legality of medical marihuana land uses and have stated that state and

local officials will not be immune from prosecution under Federal law; and

**Whereas**, the Rochester Hills Planning Commission held a public meeting on June 7, 2011 and recommended that the City Council extend the moratorium regarding medical marihuana land uses for an additional 12 months, with an update after six months, to further study and analyze and to allow more time for the State Legislature to revisit and amend the Act, for further case law development and clarification of the lawfulness of medical marihuana uses under Federal law.

**Resolved**, that in the interest of promoting and protecting the health, safety and welfare of the public, and in view of the need for clarification of the Act, and the resulting need for further study and analysis by the Planning Commission in order to develop a recommendation regarding whether and how to appropriately regulate medical marihuana land uses, businesses and facilities in the City, the Rochester Hills City Council hereby extends the moratorium regarding medical marihuana land uses for an additional twelve months, until June 20, 2012, with the understanding the moratorium is not intended to prohibit a qualifying patient's personal use of medical marihuana in his/her private residence in accordance with the Act, and supports a request from the Planning Commission to the Michigan Muncipal League to use its best efforts to move the State Legislature toward clarifying the Medical Marihuana Act and obtaining clarification of the Federal Government's position as to whether medical marihuana uses and local regulation thereof are lawful under Federal law.