All members of East Lansing’s City Council agreed at last week’s non-voting meeting with the concept of formally decriminalizing possession of an ounce or less of recreational marijuana in East Lansing. Language for a new ordinance on the subject may be introduced and voted on as early as tomorrow’s regular Council meeting (Tuesday, September 27).

Any such ordinance would be in direct conflict with Michigan law, and would possibly lead to a legal challenge from the State Attorney General’s office, a challenge which Mayor Mark Meadows believes the City would probably lose. The purpose of such an East Lansing law would be mainly symbolic, expressing Council’s position that possession of small amounts of marijuana should be legal.

A May 2015 East Lansing City Charter amendment already legalized [2] possession of an ounce or less of marijuana by a person 21 years old or older. The proposed changes will make
possession of an ounce or less by a citizen of any age a civil infraction, subject to a $25 fine.

The fact that a majority of East Lansing citizens voting in May of 2015 voted to decriminalize small amounts of marijuana means that possession of an ounce or less in your car’s glove box might not lead to criminal charges if the substance is discovered during a traffic stop by ELPD, but it could. ELPD officers have been instructed by City Attorney Tom Yeadon that if an officer decides that they must charge someone for possession of an ounce or less of marijuana, the officer should apply the applicable Michigan law, rather than invoking a local law.

You might also face criminal charges if you are stopped by an officer of the Michigan State Police, MSU Police, or the Ingham County Sherriff, all bodies that use Michigan law for possession of recreational marijuana. Possession of any amount of recreational marijuana is a criminal offense under Michigan law, with significant penalties. Medical marijuana is legal in the state and governed by separate law.

In a letter to all members of Council, local attorney Jeffrey Hank [3] asserted that Council could choose to instruct ELPD and the City Attorney’s office to rely only on the local ordinance; in other words, Council could direct them never to charge or prosecute using state law in cases that involve possession of an ounce or less by someone 21 or older. Hank drafted the 2015 charter amendment [2] [3] and is a vocal proponent of legalization.

Asked about this possibility at Tuesday night’s meeting, City Attorney Yeadon said that it was a difficult matter to ask police officers not to enforce Michigan law, which legally supersedes the local ordinance, or to discipline them for doing so.

Councilmember Erik Altmann expressed a need for ?clarity,? saying that residents need to know what they can do legally given the difference between local and state law. He asked how other jurisdictions address similar situations.

Yeadon replied that it?s a ?complicated issue,? and that there?s ?not a good answer under current law. The citizens of East Lansing voted in a charter that prohibited enforcement of the City?s previous local ordinances, but passage of that ordinance ?has no effect on state law and cannot effect state law.?

Yeadon went on to say that ?We haven?t prosecuted very many marijuana violations,? but that he has instructed law enforcement officers to use state law when they do charge for possession. He characterizes current enforcement as ?very lenient,? and says that plea bargains often end up with a state criminal possession charge bargained down to a civil infraction.

As I previously reported [4] for ELi?s readers, possession charges in East Lansing dropped by more than half in the year following the passage of the 2015 charter amendment.
Meadows closed the discussion of enforcement by reiterating that East Lansing’s City Charter sets up a certain way of governing, and that Council doesn’t have the authority to instruct officers not to apply state law. He said that he was willing to move forward at Council’s next meeting with a vote to decriminalize possession of an ounce or less across the board if fellow councilmembers were willing. All members of Council agreed to take the matter up at their next voting meeting.

Hank tells ELi he sees Council’s decision as a step in the right direction: "East Lansing should be at the forefront of progressive change and human rights in local government. Historically we’ve lead on gay rights and recycling, and now it’s time to lead again with positive change in cannabis laws."

Council’s meeting is set to begin at 7 pm in City Hall tomorrow. At present tomorrow’s published agenda indicates Council will simply vote to set a public hearing on the matter for October 11, 2016. On that date, Council is expected to consider a draft ordinance change which would, according to a memo from Yeadon, make possession of one ounce or less of marijuana by someone 21 years or older and not on public property a civil infraction.

Members of the public can comment at any City Council meeting during the public comment period and can also write to City Council on any subject.

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