

CITY OF PONTIAC



MEDICAL MARIHUANA FACILITIES ORDINANCE

NO. 2357(B)

APPLICATION FREQUENTLY ASKED QUESTIONS

APRIL 2019

1. *What is the permit application fee?*

Five Thousand Dollars (\$5,000.00). The fee is non-refundable.

2. *I am applying for multiple permit applications; do I need to pay the permit application fee for each application?*

Yes. The permit application fee for EACH application is \$5,000.00. Applications will not be accepted without a certified check for the full permit application fee payable to the City of Pontiac.

3. *What application format will be accepted?*

No electronic submission will be accepted. Each item on the application must be clearly marked per the application instructions. The applicant must submit one (1) original and four (4) copies of the completed typed application. The City Clerk will not accept partially completed applications.

4. *Where can I locate the City of Pontiac Official Zoning Maps for approved medical marihuana facility locations?*

A zoning map is available on the City Clerk's webpage (<http://www.pontiac.mi.us/departments/clerk/>). You may also contact the City of Pontiac Planning Division at 248-758-2800 to confirm the zoning of a specific property.

Also, the Medical Marihuana Overlay District Maps [Walton Blvd, Cesar Chavez, and C-2 Downtown] are posted on the City Clerk's webpage. Any and all Medical Marihuana Overlay Districts previously released by the City Council's contemplation of the Ordinance are null and void as they do not comport with the Ordinance No. 2363 (recent amendments to the Pontiac zoning ordinance regarding medical marijuana facilities). Ordinance No. 2363 is available on the City Clerk's webpage (<http://www.pontiac.mi.us/departments/clerk/>).

5. *When will the City Clerk begin accepting applications?*

The City Clerk will begin accepting applications on April 15, 2019 for growers, processors, secure transporters and safety compliance facilities.

6. *When will the applications for Provisioning Centers be released?*

The 21 day period for provisioning center applications will be announced within 7 days after April 15, 2019, the date when the City Clerk begins accepting medical marihuana permit applications for all other types of permits, in accordance with the City of Pontiac Medical Marihuana Facilities Ordinance No. 2357(B) Section 9(c).

7. *Do I have to be prequalified for a State of Michigan medical marihuana facilities license before receiving a City of Pontiac permit?*

Yes, no application will be approved for a permit unless the applicant is prequalified (step-one approval) for a State of Michigan medical marihuana facilities license by the Michigan Department of Licensing and Regulatory Affairs. While an applicant may submit its application to the Office of the City Clerk prior to receiving such prequalification, such applicant could not receive a permit unless it receives prequalification.

8. *Will the City Clerk select a professional expert to assisting in the process?*

Yes. Ordinance No. 2357(B) Section 9(j) allows the City Clerk to “engage professional expert assistance in performing the clerk’s duties and responsibilities” under the ordinance. The City Clerk has used a professional expert to assist with the drafting of the applications and related materials, and the City Clerk will use a professional expert to assist with the assessment, evaluation, scoring and ranking, as applicable, of permit applications.

9. *How many Provisioning Center permits will be awarded in the City of Pontiac?*

Pontiac will award up to 20 Provisioning Center permits. (Ordinance No. 2357(B) Section 10)

10. *Is there a limit on other types of medical marihuana facility permits (other than Provisioning Centers)?*

No. There is no limit on the number of permits issued by the City of Pontiac for growers, processors, secure transporters or safety compliance facilities. (Ordinance 2357(B) Section 10)

11. *Can permit holders operate separate medical marihuana facilities at the same physical location?*

Yes. Consistent with Medical Marihuana Facilities Licensing Act (MMFLA) and the Final Rules promulgated by the State of Michigan Department of Licensing and Regulatory Affairs (LARA), growers, processors and provisioning centers may operate as separate facilities at the same physical location, subject to any applicable requirements in the Pontiac zoning ordinance. (Ordinance No. 2357(B) Section 11).

12. *Can a permit applicant stack an application?*

Yes. Consistent with MMFLA and the Final Rules promulgated by LARA, applicants for Class C grower permits may receive multiple Class C grower permits and operate each permit in a single facility, subject to any applicable requirements in the Pontiac zoning ordinance. (Ordinance No. 2357(B) Section 11).

13. *What is the term of the medical marihuana permit issued by the City of Pontiac?*

The City of Pontiac permit is valid for one calendar year, but it is subject to review by the City Clerk and continued compliance with the regulations of the Ordinance No. 2357(B).

14. *When do I need to apply for a permit renewal?*

Permit renewals must be made in writing to the Pontiac City Clerk at least 30 days prior to the expiration of an existing permit.

15. *Is the information I submit in my application subject to the Michigan Freedom of Information Act?*

Yes. Ordinance No. 2357(B) does not include a provision to exempt information submitted with the application from the Michigan Freedom of Information Act.

16. *How will Provisioning Center permit applications be scored?*

The City Clerk will assess, evaluate, score and rank each provisioning center permit application based upon a scoring and ranking procedure developed by the City Clerk consistent with the requirements, conditions, and provisions in those categories set forth in Ordinance 2357(B) Section 9(f). Pursuant to Section 9(g), overall scoring and ranking of provisioning center permit applications will be conducted by the City Clerk on the basis of assigned points from zero (0) to one hundred and thirty (130) points. Further information about such scoring and ranking process will be provided prior to the release of the provisioning center permit application.

17. *If my application is denied, can I get my application fee back?*

No. The application fee is non-refundable.

18. *If my application is denied, can I appeal the City Clerk's decision?*

Yes. Pursuant to Ordinance 2357(B) Section 16, any applicant aggrieved by the denial of a permit may appeal to the Pontiac City Clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Pontiac City Clerk. Such appeal shall be taken by filing with the Pontiac City Clerk, within fourteen (14) days after notice of the action complained of has been mailed to the applicant's last known address on the records of the Pontiac City Clerk, a written statement setting forth fully the grounds for the appeal. The Pontiac City Clerk shall review the report and recommendation of the hearing officer and make a decision on the matter. The Pontiac City Clerk's decision may be further appealed to the medical marihuana commission if applied for in writing to the medical marihuana commission no later than thirty (30) days after the Pontiac City Clerk's decision.

IN THE ALTERNATIVE, an applicant may choose to WAIVE its opportunity to be heard before a hearing officer and to instead submit its appeal directly to the medical marihuana commission. To do so, an applicant must submit to the medical marihuana commission through the Pontiac City Clerk's Office, within thirty (30) days after notice of the action complained of has been mailed to the applicant's last known address on the records of the Pontiac City Clerk, a writing requesting an appeal directly to the medical marihuana commission. (By appealing directly to the medical marihuana commission, the applicant WAIVES its opportunity for a hearing and further WAIVES its opportunity to present additional clarifying information or evidence that the applicant believes should be considered in assessing its application.)

Any decision by the medical marihuana commission on an appeal shall be final for purposes of judicial review. The medical marihuana commission shall review and decide all appeals that are forwarded to it by the Pontiac City Clerk under the Ordinance, and the medical marihuana

commission shall review all appeals de novo. The medical marihuana commission shall only overturn a decision or finding of the Pontiac City Clerk if it finds such decision or finding to be arbitrary or capricious and not supported by material, substantial, and competent facts on the whole record considered by the Pontiac City Clerk in arriving at such decision or finding. A decision or finding is arbitrary if it is fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances or significance. *Mich Farm Bureau v Dept of Env'tl Quality*, 292 Mich App 106, 141; 807 NW2d 686 (2011). A decision or finding is capricious if it is apt to change suddenly, freakish or whimsical. *Id.* Substantial evidence is that which a reasonable mind would accept as adequate to support a decision or finding, being more than a mere scintilla, but less than a preponderance of the evidence. *Shirvell v Dept of Atty Gen*, 308 Mich App 702, 731; 866 NW2d 478 (2015).

