

CITY OF PONTIAC

ORDINANCE NO. # 2424

AN ORDINANCE TO ALLOW ADULT-USE MARIHUANA ESTABLISHMENTS TO OPERATE IN THE CITY OF PONTIAC PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW 1 OF 2018, MCL 333.27951 ET SEQ.; TO PROVIDE FOR STANDARDS AND PROCEDURES TO PERMIT AND REGULATE ADULT-USE MARIHUANA ESTABLISHMENTS; TO PROVIDE FOR THE IMPOSITION OF PERMIT APPLICATION FEES AND RENEWAL FEES; AND TO IMPOSE CONDITIONS FOR THE OPERATION OF ADULT-USE MARIHUANA ESTABLISHMENTS.

THE CITY OF PONTIAC ORDAINS:

ARTICLE _____. ADULT-USE MARIHUANA BUSINESS LICENSING

Sec. 01. Title.

The title of this ordinance shall be the “City of Pontiac Adult-Use Marihuana Business Ordinance.”

Sec. 02. Purpose and Intent.

A. Purpose. The purpose of this Ordinance is to establish standards and procedures for the issuance, regulation, renewal, suspension, and revocation of business licenses for adult-use marihuana establishments in accordance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq. (“MRTMA”) so as to protect the public health, safety, and welfare of residents of the City by setting forth the manner in which adult-use marihuana businesses can be operated in the City. Further the purpose of this Ordinance is to:

(1) Protect the health, welfare and safety of the public through reasonable regulations on adult-use marihuana business operations as it relates to noise, odor, air and water quality, food safety, public safety, security for the establishments and its personnel, and other health and safety concerns;

(2) Protect residential zoned properties and neighborhoods by limiting the location and the concentration of types of Marijuana Businesses to specific areas of the City;

(3) Establish application and license fees to defray and recover the City’s costs for administering and enforcing this ordinance;

(4) Recognize that the City of Pontiac has been identified by the State of Michigan's Cannabis Regulatory Agency as a city that has been disproportionately impacted by marihuana prohibition and enforcement and that social equity in the marihuana industry is necessary to address the historical disproportionate impact of marihuana prohibition and enforcement upon Pontiac residents and to positively impact the Pontiac community;

(5) Minimize the adverse effects from growing, processing, dispensing and storage of marihuana;

(6) Minimize the adverse effects from excessive consumption and use of marihuana;

(7) Coordinate with state laws and regulations addressing Marihuana Businesses; and

(8) To restrict the issuance of Marihuana Business permits only to those individuals and entities that demonstrate an intent and ability to fully comply with this Ordinance and the laws of the City and the State of Michigan.

B. Legislative Intent. This ordinance authorizes the establishment of adult-use marihuana businesses within the City of Pontiac consistent with the provisions of MRTMA, subject to the following:

(1) Use, distribution, cultivation, production, possession, and transportation of marihuana remains illegal under federal law, and marihuana remains classified as a "controlled substance" by federal law. Nothing in this ordinance is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under state or federal law. This ordinance does not protect the owners of properties on which a marihuana commercial operation is occurring from prosecution or from having their property seized by federal law enforcement authorities.

(2) This ordinance is to be construed to protect the public health, safety and welfare over commercial adult-use marihuana business interests. The operation of a permitted adult-use marihuana business in the City is a revocable privilege and not a right in the City. Nothing in this ordinance is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed a City-issued permit to engage in the use, distribution, cultivation, production, possession, transportation or sale of adult-use marihuana as a commercial enterprise

in the City. The City determines that the commercialization of marihuana is a “closely regulated industry” as that term is used in U.S. Supreme Court jurisprudence.

(3) Any individual or business entity which purports to have engaged in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the City without obtaining the required authorization required by this ordinance is deemed to be an illegally established nuisance, and as such is not entitled to legal nonconforming status under this ordinance, the City zoning ordinance, or state statutory or common law.

(4) Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form that is not in strict compliance with the MRTMA and the Marihuana Tracking Act, and all applicable administrative rules promulgated by the State of Michigan regarding the commercialization of marihuana. Strict compliance with all applicable state laws and regulations is a requirement for the issuance or renewal of any permit issued under this ordinance, and noncompliance with any applicable state law or regulation is grounds for the revocation or nonrenewal of any permit issued under this ordinance.

C. Indemnification of the City.

(1) By accepting a permit issued pursuant to this ordinance, the holder waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of marihuana business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(2) By accepting a permit issued pursuant to this ordinance, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating marihuana business arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana business or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).

D. Reservation.

(1) The City of Pontiac shall not waive or constrain, in any manner, the right and prerogative of the City of Pontiac to reject any and all applications, to reject an application not accompanied with the required documentation or data required by the application, or to reject an application which is any way incomplete, irregular, not responsive or not responsible.

(2) The City of Pontiac shall not waive or constrain, in any manner, the right and prerogative of the City of Pontiac to amend or repeal this ordinance in any manner, including, but not limited to, the complete prohibition of any type of adult-use marihuana business or limiting the number and types of adult-use marihuana businesses authorized to operate in the City.

(3) Nothing in this ordinance is to be construed to grant or grandfather any marihuana business a vested right, license, permit or privilege for continued operations within the City.

Sec. 03. Definitions.

Unless defined by this ordinance, any term used in this Section that is defined by the MRTMA, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing marihuana shall have the definition given in MRTMA and in the Rules.

As used in this Section, the following terms shall have the meanings indicated:

"Applicant" means a person who applies for a City-issued permit to operate a Marihuana Business in accordance with the terms of this Ordinance and the City zoning ordinance. With respect to disclosures in an application for a permit issued pursuant to this Ordinance for purposes of ineligibility for a permit and the transfer of an interest in an issued permit, the term "applicant" includes a managerial employee of the applicant, and any person who holds a direct or indirect ownership interest of 6% or more in the applicant. Any person or entity who owns less than 6% of direct or indirect ownership in the applicant but who exercises control over or participates in the management of the applicant shall be deemed to be an Applicant. Applicant includes the following for each type of applicant:

(a) For an individual or sole proprietorship: the proprietor and spouse.

(b) For a partnership and limited liability partnership: all partners holding a direct or indirect ownership interest of 6% or more in the partnership and their spouses.

(c) For a limited partnership and limited liability limited partnership: all general and limited partners holding a direct or indirect ownership interest of 6% or more in the limited partnership or limited liability limited partnership, and their spouses.

(d) For a limited liability company: all members holding a direct or indirect ownership interest of 6% or more in the limited liability company and their spouses, and all managers and their spouses.

(e) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders holding a direct or indirect ownership interest of 6% or more in the privately held corporation, and their spouses.

(f) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders holding a direct or indirect ownership interest of 6% or more in the publicly held corporation, and their spouses.

(g) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive 6% or more of the gross or net profits from the enterprise during any full or partial calendar or fiscal year.

(h) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(i) For a trust: all trustees, any individual or entity able to control and direct affairs of the trust, and any beneficiary who receives or has the right to receive 6% or more of the gross or net profit distributions of the trust during any full or partial calendar or fiscal year, and their spouses.

"Application" means the form(s) provided by the City, accompanied with the nonrefundable application fee per each permit requested.

"City" means the City of Pontiac, Michigan.

“Class A marihuana grower” means a grower licensed to grow not more than 100 marihuana plants.

“Class A Microbusiness” means a marihuana establishment authorized to operate at a single location and cultivate not more than 300 mature marihuana plants; package marihuana; purchase marihuana concentrate and marihuana-infused products from licensed marihuana processors; sell or transfer marihuana and marihuana-infused products to individuals 21 years of age and older; and transfer marihuana to a safety compliance facility for testing.

“Class B marihuana grower” means a grower licensed to grow not more than 500 marihuana plants.

“Class C marihuana grower” means a grower licensed to grow not more than 2,000 marihuana plants.

"Co-Locate" or "Co-Location" means any combination of growers, processors, retailers, social equity retailers, designated consumption, and Class A microbusiness establishments that are authorized by the City to operate as separate marihuana businesses at a single property but with separate business suites, partitions, and separate means of public ingress/egress from the exterior or from a common lobby area.

"Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

“Department” means the State of Michigan Department of Licensing and Regulatory Affairs (LARA), including without limitation, the Cannabis Regulatory Agency, or its successor agency.

“Designated Consumption Establishment ” means a marihuana-related business authorized to permit individuals 21 years of age and older to consume marihuana products on the licensed commercial premises located in the C-2 Downtown Overlay District No. 3.

“Disqualifying conviction” means a conviction that makes an applicant ineligible to receive a license under MRTMA and the Rules.

“Equivalent License” means any of the following state operating licenses when held by a single licensee:

- (1) Grower licenses of any class under both the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et. seq. ("MMFLA") and MRTMA.
- (2) Processor licenses under both the MMFLA and MRTMA.
- (3) Secure transporter licenses under both the MMFLA and MRTMA.
- (4) Safety compliance facility licenses under both the MMFLA and MRTMA.
- (5) A provisioning center license under the MMFLA and a retailer establishment license under the MRTMA.

"Grower" means a licensee establishment that cultivates, dries, trims, or cures and packages marihuana for sale or transfer to a processor, retailer, or another grower.

"Industrial Hemp" means the term as defined at MCL 333.27953 (c).

"License" means a license that is issued by the Department under MRTMA that allows the licensee to operate an adult-use marihuana establishment in the City.

"Marihuana" means the term as defined at MCL 333.27953. For purposes of this Ordinance marihuana does not include industrial hemp.

"Marihuana accessories" means the term as defined at MCL 333.27953 (g).

"Marihuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.

"Marihuana Business" means the following adult-use marihuana establishments, whether operated for profit or not for profit: (a) grower, (b) safety compliance facility, (c) processor, (d) retailer, (e) social-equity retailer, (f) secure transporter, (g) Class A microbusiness, (h) designated consumption establishment, (i) marihuana event organizer or (j) temporary marihuana event.

"Marihuana establishment" means a location at which a permittee is permitted to operate under this Ordinance and MRTMA.

"Marihuana Event Organizer" means a person licensed to apply for a temporary marihuana event license.

"Marihuana-Infused Product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

"Marihuana Tracking Act" or "MTA" means Public Act 282 of 2016, MCL 333.27901, et seq., as amended and all future amendments.

"Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means, Initiated law 1 of 2018, MCL 333.27951, et. seq., as amended and all future amendments.

"Permit" means the permit issued pursuant to this ordinance authorizing the operation of a Marihuana Business in the City.

"Permittee" means a person who receives and holds a permit to operate a Marihuana Business issued by the City under this ordinance.

"Person" means an individual, sole proprietorship, partnership, limited liability partnership, limited partnership, limited liability limited partnership, corporation, limited liability company, trust, or other legal entity, and includes persons within the definition of "applicant" as that term is used in this Ordinance.

"Processor" means a person licensed to purchase or obtain marihuana from a grower establishment and who processes the marihuana and sells or transfers it in packaged form to a retailer, class A microbusiness, or another processor. A processor is not prohibited from handling, processing, marketing or brokering industrial hemp pursuant to the Industrial Hemp Research and Development Act.

"Retailer" means a licensee that obtains marihuana from marihuana establishments and sells or otherwise transfers marihuana to marihuana establishments and to individuals who are 21 years of age or older in accordance with MRTMA.

"Rules" means the unified administrative rules promulgated and from time to time amended by the Department to implement the MMFLA and MRTMA.

"Safety Compliance Facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

"Secure Transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

"School" means and includes buildings and grounds used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12 by a public, private, denominational, or parochial school.

"Social Equity-Qualified Business" means a marihuana establishment operated by an applicant, including franchisees, that qualifies for the benefits offered under the social equity program administered by either the Department or the City and who demonstrates and documents 51% or more ownership by social equity qualifying applicants, including ownership structure of the entity that identifies the ownership percentage held by each stakeholder.

"Stakeholder" means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, all members with a direct or indirect ownership interest greater than 6% and all managers; with respect to a corporation, whether profit or non-profit, all stockholders with a direct or indirect ownership interest greater than 6%, directors, corporate officers or persons with equivalent titles; and with respect to a partnership, limited liability partnership, limited partnership and limited liability limited partnership all general and limited partners with a direct or indirect ownership interest greater than 6%. "State" means the State of Michigan.

"State Operating License" means a license that is issued by the Department under MRTMA that allows the licensee to operate an adult-use marihuana establishment, as specified in the license.

"Temporary Marihuana Event" means a license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

Sec. 04. Creation of Marihuana Business Commission; Composition; Quorum

(a) There is hereby created a Marihuana Business Commission. There shall be four (4) members of the Marihuana Business Commission. The membership shall elect from among its members a chairman, vice-chairman, and secretary.

(b) A quorum of the Marihuana Business Commission shall consist of three (3) members.

Sec. 05. Marihuana Business Commission Membership; Qualifications; Term; Vacancies; Compensation.

(a) Members of the Marihuana Business Commission shall be residents of the city, and shall be chosen so far as reasonably practicable in such a manner as to represent a cross-section of the community.

(b) Members of the Marihuana Business Commission shall be appointed by the mayor to serve at the pleasure of the mayor for a term of three (3) years. Reappointment of a member to serve an additional consecutive term is subject to council approval.

(c) If a vacancy occurs on the Marihuana Business Commission, the mayor shall appoint a new member to fill the vacancy.

(d) Members of the Marihuana Business Commission shall serve without pay.

Sec. 06. Marihuana Business Commission Powers and Duties.

The Marihuana Business Commission shall review and decide all appeals that are forwarded to it by the clerk under this ordinance. The Marihuana Business Commission shall review all appeals de novo. The Marihuana Business Commission shall only overturn a decision or finding of the 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 clerk in arriving at such decision or finding.

Sec. 07. Marihuana Business Commission Rules and Regulations; Meetings.

(a) The Marihuana Business Commission shall adopt such rules and regulations as it deems necessary to govern its proceedings and deliberations.

(b) The rules and regulations adopted by the Marihuana Business Commission shall be subject to approval by the council.

(c) The Marihuana Business Commission shall maintain a written record of its proceedings and actions which shall be available for public inspection, showing the action of the commission and the vote of each member upon each question considered. All meetings of the commission shall be held in conformance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

Sec. 08. Marihuana Business Rules and Regulations.

(a) In addition to the Rules promulgated by the Department and the statutes of the State of Michigan, the operations of a Marihuana Business shall be conducted in accordance with the provisions of this ordinance and the City Code of Ordinances, including the zoning ordinance.

(b) Retailer establishments, Social Equity Retailer establishments, and Class A Microbusinesses located outside of the Downtown Overlay District shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises, between the hours of 10:00 p.m. and 7:00 a.m. Retailer establishments, Social Equity Retailer establishments and Class A Microbusinesses located in the Downtown Overlay District shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises, between the hours of 2:00 a.m. and 7:00 a.m.

(c) Delivery of a marihuana product for sale or transfer to marihuana customers by Retailer Establishments and Social Equity Retailer Establishments is permitted in strict compliance with Department Rules.

(d) Drive throughs and drive through, walk-up window service, and curbside service shall be a prohibited use for all Retailer Establishments, Social Equity Retailer Establishments and Class A Microbusinesses.

Sec. 09. Licensing of Adult-Use Marihuana Businesses.

(a) Number of permitted adult-use Marihuana Businesses.

Type of Establishment

Grower	No limit
Processor	No limit
Secure transporter	No limit
Retailer	17
Social Equity Retailer	6
Class A Microbusiness	5
Safety compliance facility	No limit
Designated Consumption Establishment-North of Huron Street	3
Designated Consumption Establishment-South of Huron Street	3
Marihuana event organizer	No limit

Temporary marihuana event

No limit

Sec. 10. City Marihuana Business Permit and Annual Fee Required.

(a) No person shall establish or operate a Marihuana Business located in the City without first meeting all of the requirements set forth in this Ordinance, obtaining a permit from the City Clerk, and obtaining a State Operating License. Permits and State Operating Licenses shall be kept current and publicly displayed within the business. Failure to maintain or display current state licenses and City permits is a violation of this ordinance. A Marihuana Business operating without a City permit under this Ordinance or without a State license is declared to be a public nuisance.

(b) There shall be an initial application fee of \$5,000.00 and an annual nonrefundable renewal of permit fee of \$5,000.00 to defray the administrative and enforcement costs associated with marihuana businesses located in the City.

(c) The City permit fee requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by the Department and any other state regulatory agency, or by City ordinance, including, by way of example, and not limited to, any applicable fees for site plan review, zoning review, inspections, or building permits.

(d) A separate permit is required for each Marihuana Business co-located at a premises from which adult-use marihuana commercial businesses are operated. Operation of a grower, processor, retailer establishment or social equity retailer establishment, Class A microbusiness, and designated consumption establishment at the same co-location is authorized, provided that each establishment is separately licensed and permitted. Co-Location of a retailer establishment or social equity retailer establishment, Class A microbusiness and a designated consumption establishment at the same location as a grower or processing establishment is authorized when in conformity with the City zoning ordinance.

(e) Within thirty (30) days of approval of the applicant's application, the applicant will start all necessary requirements as required by the City to obtain their certificate of occupancy, including, without limitation, complying with all applicable building department, fire department, code and inspection requirements, including the approval of the site plan.

(f) All Marihuana Business permits shall be effective for one (1) year of its original date of issuance by the City and must be renewed annually.

(g) The conditional permittee has one (1) year to complete its site plan upon the approval of the issuance of the Marihuana Business conditional permit. The Community Development Director may extend the completion of the site plan up to an additional six months, provided the applicant demonstrates good cause for the extension.

Sec. 11. Location Criteria.

- (a) No marihuana business is eligible to receive a permit unless at the time the application for the marihuana business operating permit is submitted, the location of the proposed business operation complies with the requirements set forth in the City zoning ordinances as required for the specific type of marihuana commercial business for which the permit is being sought.
- (b) Mobile marihuana businesses and limited contact transaction operations are prohibited.
- (c) A permittee shall not operate a marihuana business at any location in the City other than at the address provided in the application on file with the City Clerk.

Sec. 12. General Permit Application Requirements.

(a) An applicant seeking a permit pursuant to the provisions of this ordinance and licensure by the state under MRTMA must submit an application in writing to the City Clerk on forms provided by the City Clerk. At the time of application, the application must be accompanied by a nonrefundable application fee of \$5,000.00 to defray the costs incurred by the City for processing of the application. In addition, the applicant shall present copies of government-issued photographic identification to accompany the application. Applicants are limited to one application per location. Multiple applications for the same establishment location shall be disqualified.

(b) An application shall be complete and made under the penalty of perjury and shall contain all of the following:

- (1) The applicants, all of its stakeholders, and the proposed manager's full name, date of birth, residential and business address, email address, and telephone numbers including emergency contact information, and a copy of a government-issued photographic identification card of the applicant and all stakeholders:

(a) If the applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification (EIN) number.

(b) If the applicant is not an individual or sole proprietorship, the applicant shall provide information regarding the business entity, including, without limitation, the name and address of the entity, website address (if any), type of business organization, proof of registration with, or a certificate of good standing from, the State of Michigan, or other state or foreign jurisdiction, as applicable, and the names, dates of birth, residential and business addresses, email addresses, phone numbers of each applicant, each stakeholder and their spouses, and the federal tax identification number of the business entity.

(2) In addition to the disclosures above, each applicant entity shall disclose in the application the ownership structure of the applicant entity and the identity of every person or entity having a direct or indirect ownership interest in the applicant entity greater than 2.5% by providing the entity or individual name, the ownership percentage, email address, mailing address and if applicable, the date of birth; provided, however, a social equity-qualified business entity who is an applicant must also demonstrate 51% or more ownership by qualifying social-equity applicants. For purposes of this Section 12(b)(2), the term “applicant entity” shall only refer to the person or entity applying for a permit from the City hereunder, and not the owners or managers of such entity.

(3) If the applicant is not an individual, the articles of incorporation or organization, federal tax identification number and confirmation letter, and the limited liability company’s operating agreement, the corporation’s shareholder agreement and bylaws, and the partnership agreement for a partnership or limited partnership, as applicable.

(4) A copy of the applicant's notice of prequalification status issued by the Department to operate an adult-use marijuana establishment. If the applicant does not have adult-use prequalification status from the Department, the application will not be processed by the City.

(5) The name and address of the proposed Marihuana Business and any additional contact information deemed necessary by the City Clerk, including the following:

(a) A copy of the deed reflecting the applicant's ownership of the proposed permitted premises, or a purchase agreement or option to purchase the proposed permitted premises as applicable; or

(b) A copy of the lease reflecting the right of the applicant to possess, or an agreement or option reflecting the applicant's right to lease, the proposed permitted premises, and a notarized statement from the owner of such property authorizing the use of the property for a marihuana business as applicable.

(6) For the applicant and every stakeholder, affirmation from the applicant that each is at least 21 years of age.

(7) A criminal history background report of the applicant's criminal history from the Internet Criminal History Access Tool (ICHAT) or a Michigan State Police criminal history report for applicants residing in Michigan. For applicants who reside in any other state, federal or foreign jurisdiction, or who have resided in any other state, federal or foreign jurisdiction within 5 years prior to the date of the application provide a certified state, federal or foreign jurisdiction sponsored or authorized criminal history report. The applicant is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within thirty (30) days of the date of the application. For purposes of this subsection (7) an applicant includes a managerial employee of the applicant and any person who exercises control over or participates in the management of the applicant.

(8) Written consent authorizing the City to obtain a criminal history report from the Michigan State Police, the Federal Bureau of Investigation, or other applicable state, federal or foreign jurisdiction law enforcement or police agency, to ascertain whether the applicant and stakeholders have any disqualifying convictions or convictions involving dishonesty, theft, fraud, or controlled substances.

(9) A current organization chart that includes position descriptions and the names of each person holding such position, which shall include date of birth, address, copy of photo

identification, and email address for any operator, manager, or employee if other than the applicant.

(10) A complete list of all marihuana related business permits and licenses held by applicant.

(11) An attested disclosure whether the applicant or operator has ever had a business license revoked or suspended, and if revoked or suspended, the reason for such revocation or suspension and copies of the orders of revocation or suspension.

(12) An attestation that no applicant or stakeholder is ineligible from holding a state license to operate a marihuana commercial business.

(13) An attestation that the applicant consents to inspections, examinations, searches and seizures required or undertaken pursuant to enforcement of this ordinance.

(14) A statement that no applicant is in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City.

(15) For the applicant and for each stakeholder, a resume that includes a business history and any prior experience with a marihuana-related business.

(16) The proposed business plan of the applicant, which shall include without limitation, the following:

(a) A description of the type of the proposed adult-use marihuana commercial operation and its physical address; and

(b) A staffing plan which describes the anticipated or actual number of employees, including an estimate of the number and type of jobs that the business is expected to create, a proposed living wage or salary (at least 200 percent of the Federal Poverty Level for a family of two, at its hourly basis) for all employees pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution, and a health and welfare benefits package to be paid for such jobs, unless otherwise prohibited

by state law, and the goals and objectives to recruit, hire and promote residents of the City; and

(c) A staff training and education plan that the applicant will provide to employees; and

(d) The financial structure, source of financing, development and build-out budget and projected initial operating budget of the proposed Marihuana Business; and

(e) Short and long-term goals and objectives; and

(f) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents to be achieved by the establishment, a proposed living wage or salary (at least 200 percent of the Federal Poverty Level for a family of two, at its hourly basis) for all employees pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution, and a health and welfare benefits package to be paid for such jobs, unless otherwise prohibited by state law, including plans for community outreach and worker training programs;

(g) If co-location of Marihuana Businesses is proposed, provide an explanation of the integration of such businesses, including a drawing showing the relationship between the businesses being co-located, including floor area and the separation provided between such facilities, including identification of any points of entry, ingress or egress, and controls at each location; and

(h) A neighborhood communication/education plan and strategies; and

(i) Any charitable plans and strategies whether through financial donations or volunteer work.

(17) A lighting plan showing the lighting outside of the marihuana business for security purposes and compliance with applicable City outdoor lighting requirements;

(18) A security plan, including, but not limited to, lighting, alarms, barriers, recording/monitoring devices, safes, and/or security guard arrangements proposed for

the establishment and premises. The security plan must contain the specification details of each item of security equipment.

(19) A to-scale diagram of the proposed licensed premises, no larger than 11 inches by 17 inches, showing, without limitation, building floor plan and layout, all entryways, doorways, or passageways, and means of public entry and exits to the proposed licensed premises, loading zones, available on-site parking spaces, including handicapped accessible spaces, fencing at the premises, and all areas in which marihuana will be stored, grown, manufactured or dispensed;

(20) Any proposed elevation drawings, and photographs or other depiction of materials to be visible on the exterior of the proposed Marihuana Business.

(21) A proposed marketing, advertising, and business promotion plan for the proposed Marihuana Business.

(22) A description of planned tangible capital investment in the City for each proposed Marihuana Business.

(23) A social equity plan that (a) promotes and encourages participation and ownership in the marihuana industry by local residents that have been disproportionately impacted by marihuana prohibition and enforcement, and that (b) positively impacts local residents.

(24) A depiction of any proposed signage, text or graphic materials to be shown on the exterior of the proposed Marihuana Business.

(25) A sanitation plan designed to protect against any marihuana being ingested on the premises by any person or animal, describing how the waste and byproduct will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. The sanitation plan shall include a copy of the proposed contract or letter of intent between the Applicant and sanitation waste provider.

(26) A proposed inventory and recordkeeping plan that will track payment method, amount of payment, time of sale, product quantity, and other product descriptors and compliance with the requirements of the Department.

(27) Proof of financial responsibility in the form of a commitment or letter of intent to issue an insurance policy covering the business and naming the City of Pontiac, its elected and appointed officials, employees, and agents, as additional insured parties, primary and non-contributory available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of:

- a. at least Two Million Dollars (\$2,000,000) for property damage;
- b. at least Two Million Dollars (\$2,000,000) for injury to one (1) person; and
- c. at least Two Million Dollars (\$2,000,000) for injury to two (2) or more person resulting from the same occurrence.

The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with state law. The policy shall provide that the City shall be notified by the insurance carrier thirty (30) days in advance of any cancellation or reduction in coverages.

(28) A signed acknowledgement that the applicant understands that all matters related to marihuana cultivation, possession, dispensing, testing, transporting, distribution and use are subject to federal and state laws and regulations, and that the approval of a permit hereunder does not exonerate or excuse the applicant from abiding by the provisions and requirements and penalties associated therewith. Further, the applicant completely releases and forever discharges the city and its respective employees, agents, facilities, insurers, indemnsors, successors, heirs and/or assigns from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory or recovery, which the applicant or its stakeholders may now have, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way arise out of the applicant or stakeholders' application for a permit and, if issued a permit, the applicant or stakeholders' operation of a Marihuana Business.

(29) A scaled location area map that identifies the relative locations of, and distances from, Schools, childcare centers, public parks, and religious institutions, as measured

along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the primary point of ingress to the school, childcare center, religious institution, or public park, nearest to contemplated location, and from the primary point of ingress to the contemplated location.

(30) If the applicant is applying for a permit to operate a Retailer, a Social Equity Retailer, a Class A Microbusiness, a Designated Consumption Establishment, or a Temporary Marihuana Event, a description of drug and alcohol awareness programs to be provided by the applicant to customers and the public.

(31) If the applicant is applying for a permit to operate a grower, a cultivation plan that includes a description of the cultivation methods to be used. Outdoor grows are prohibited.

(32) If the applicant is applying for a permit to operate a grower, a chemical and pesticide storage plan that complies with the requirements of the Department.

(33) An applicant for a Marihuana Secure Transporter license shall provide copies of the vehicle registration for all commercial motor vehicles that will be used to transport marihuana or marihuana-infused products. A secure transporter must provide proof of no-fault automobile insurance with a company licensed to do business in Michigan with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage.

(34) Any other information requested by the City Clerk considered to be relevant to the processing or consideration of the application.

(c) An applicant may apply for multiple Marihuana Business permits of the same or different nature, except that Class A Microbusiness applicants may not hold an ownership interest in a grower, processor, retailer, or social equity retailer, and social equity retailer permits are limited to social equity qualified applicants. No person who holds an ownership interest in a safety compliance facility or in a secure transporter may hold an ownership interest in a grower, a processor, a retailer, a social equity retailer, or a Class A microbusiness.

Sec. 13. Marihuana Business Permit Application Process.

(a) Upon receipt of a completed application meeting the requirements of this ordinance and payment of the permit application fee, the Clerk shall refer a copy of the application to the fire department and the Community Development Department, the planning division, and other affected departments for review and compliance with the City Code.

(b) No application for a permit shall be approved unless:

(1) The fire department and the Community Development Department and other affected departments have inspected the proposed location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements.

(2) The Community Development Department, the planning division, and other affected departments have confirmed that the proposed location complies with the zoning ordinance.

(3) The proposed Marihuana Business has been issued a certificate of occupancy and, if necessary, a building permit.

(4) The City Treasurer confirms the applicant and each stakeholder and the proposed location of the Marihuana Businesses are not in default to the City.

(c) After sixty (60) days from the effective date of this ordinance, the Clerk shall begin accepting adult-use Marihuana Business applications for a permit to operate a grower, processor, secure transporter, safety compliance facility, marihuana event organizer, and temporary marihuana event.

(d) The Clerk shall award a conditional permit to any applicant for a permit to operate a grower, processor, secure transporter, safety compliance facility, marihuana event organizer, and temporary marihuana event, upon the determination by the Clerk that the application is complete, the applicant receives the City and State of Michigan approvals required in this ordinance, and the applicant meets all of the requirements of this ordinance and the City Code, including the zoning ordinance. If the City Clerk identifies, or is informed of, a deficiency in an application, the applicant has two (2) weeks to correct the deficiency after notification by the City Clerk. The Clerk will grant a final permit if the applicant obtains final site plan approval and special land use approval within 6 months of receiving a conditional permit, enters into a written agreement with the City confirming that the marihuana establishment will operate in accordance with the business plans, building plans, design standards, social equity plans and all other operational standards

described by the applicant in the application materials submitted, and obtains a permit from the City and an operating license from the Department within 18 months after the conditional permit is granted. The agreement shall further provide that if the establishment breaches the agreement, then the City may revoke authorization of the establishment following notice and a public hearing, and that in such event, the City shall be entitled to injunctive relief barring further operation of the establishment in the City. An extension of 6 months to obtain an operating permit from the City and an operating license from the Department may be granted in the discretion of the Clerk upon a showing of good cause for the delay.

(e) Retailer, Social Equity Retailer, Class A Microbusiness and Designated Consumption Establishment Applications. After thirty (30) days from the effective date of this ordinance, a point-based scoring and ranking procedure shall be approved by City Council resolution and the Clerk shall set a 21-day application window period during which applicants may apply for a Retailer, Social Equity Retailer (limited to Social Equity Qualified applicants), Class A Microbusiness and Designated Consumption Establishment permits. After the 21-day application window closes, the Clerk shall assess, evaluate, score and rank all applications for permits to operate a Retailer, Social Equity Retailer, Class A Microbusiness and Designated Consumption Establishment submitted during the twenty-one (21) day application window period. The Clerk shall review all submitted applications for completeness.

(f) In its application assessment, evaluation, scoring, ranking, and deliberations related to permits to operate a Retailer, Social Equity Retailer, Class A Microbusiness, and Designated Consumption Establishment, the Clerk shall assess, evaluate, score, and rank each application based upon a point-based scoring and ranking procedure which shall be approved by City Council resolution, consistent with the requirements, conditions, and provisions of this ordinance in each of the following categories:

(1) The content and sufficiency of the information required to be in the application under this ordinance. Applicant must have submitted all required materials for each category in a professional, organized manner with clear and accurate labeling of all required items. Failure to clearly and accurately label and organize the application materials will result in the deduction of points. The maximum number of scoring points in this category shall be five (5) points.

(2) Whether the proposed Marihuana Business will have a detrimental impact on the surrounding area and neighborhood including the distance of the establishment to properties zoned or used residentially; traffic patterns, traffic mitigation and resident safety; plans for litter control, loitering, noise mitigation, odor mitigation. Applicant shall submit a traffic impact study by a professional traffic engineer. Applicant shall submit a sanitation plan designed to protect against any marihuana being ingested on the premises by any person or animal, describing how the waste and byproduct will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. The sanitation plan shall include a copy of the proposed contract between the Applicant and sanitation waste provider. Applicant shall submit an odor control plan satisfying the criteria in Sec. 15 of this ordinance. The maximum number of scoring points in this category shall be twenty (20) points.

(3) Neighborhood Communication/Education Plan on behalf of the proposed Marihuana Business. The plan shall include meetings, at least once per year, with the neighborhood organizations, residents and general public, and to provide a contact for on-going public information, questions and concerns, and written notice to all property owners within 1500 feet of the marihuana business location, neighborhood organizations and City Clerk shall be provided a copy of the written notice two (2) weeks before the public meeting. In addition, to other methods of notice, the written notice shall be sent by mail at least two (2) weeks before the public meeting. The maximum number of scoring points in this category shall be ten (10) points.

(4) Whether the applicant or its stakeholders have made, or plan to make, significant physical investment and improvements to the building where the proposed Marihuana Business is to be located, including the applicant's financial structure, source of financing, development and build-out budget and projected initial operating budget of the proposed Marihuana Business and proposed tangible capital investment; the current and proposed condition of the proposed location; and the applicant's ownership stake in the physical location of the establishment. The maximum number of scoring points in this category shall be ten (10) points.

(5) Whether the applicant and all of its stakeholders have a record of acts that are not detrimental to the public health, security, safety, morals, good order, or general welfare prior

to the date of the application; applicant shall demonstrate and document a history of regulatory compliance with all federal, state and local laws and regulations, and shall disclose all complaints, judgments, convictions, administrative and regulatory decisions, permit and license suspensions, revocations and fines, rendered by any federal, state and local government agencies, including but not limited to wage and hour laws, anti-discrimination and civil rights laws, and occupational, health and safety laws. The maximum number of scoring points in this category shall be ten (10) points.

(6) Whether the applicant has disclosed and documented sufficient financial resources and total amount of capitalization to develop, operate and maintain a Retailer, Social Equity Retailer, Class A Microbusiness or Designated Consumption Establishment, and demonstrates the requisite business experience to execute, the submitted business plan and other plans required by this ordinance. The applicant should disclose and document sources and total amount of capitalization to operate and maintain a Retailer establishment, a Social Equity Retailer, Class A Microbusiness and Designated Consumption Establishment, and include a CPA attested financial statement, a valid pro forma for three years, proof of financial responsibility in the form of a commitment or letter of intent to issue an insurance policy satisfying the criteria in Sec. 12 (b)(27) of this ordinance, attest that the applicant and any of its owners have not filed bankruptcy in the last seven (7) years, have not had liens placed upon financial accounts or property by the Internal Revenue Service or state Treasuries, and has filed personal and/or corporate income tax returns for the past five (5) years. The maximum number of scoring points in this category shall be twenty (20) points.

(7) Description of staffing plan that includes the number and type of full-time and part-time positions the applicant intends to create; the proposed living wage or salary (at least 200 percent of the Federal Poverty Level for a family of two, at its hourly basis) for all employees pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution, the applicant intends to pay employees, unless otherwise prohibited by state law; whether the applicant has articulated plans and strategies to recruit, hire and mentor for career advancement, a percentage of diverse residents from the City of Pontiac, including those residents who are veterans, low income and/or have a prior controlled substance record

(excluding distribution of a controlled substance to a minor); a staff training and education plan that the applicant will provide to employees; an explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents to be achieved by the establishment; short and long-term goals and objectives; and whether the applicant has articulated plans to provide employee health and welfare benefit plans, including, but not limited to, sick leave, maternity leave, and paternity leave. The applicant shall maintain and provide data to the City Clerk supporting its staffing plan which shall be considered at the time of renewal of any permit issued pursuant to this ordinance to determine compliance. The maximum number of scoring points in this category shall be ten (10) points.

(8) Planned philanthropic initiatives and community improvement programs aimed at the City of Pontiac, which may include a donation to a fund administered by the City used to promote social equity in the City of Pontiac, a negatively impacted community, by promoting advocacy around criminal justice issues related to marihuana prohibition, supporting youth who have been negatively impacted by the war on drugs as it relates to the prohibition of marihuana, and community education and outreach on adult-use marihuana in general. The maximum number of scoring points in this category shall be ten (10) points.

(9) Whether the applicant has current and final conditional approval for a medical marihuana provisioning center permit pursuant to City of Pontiac's Medical Marihuana Facilities Ordinance, Article XXX, Section 26.1491 et seq., and is not currently in default of compliance with Article XXX. This subsection (9) does not apply to those applicants for a medical provisioning center permit who were initially one of the five highest scoring applicants in the zoning district where they applied but are no longer one of the five highest scoring applicants in the zoning district where they applied. The medical applicant entity who has current and final conditional approval for a medical marihuana provisioning center permit shall be awarded the thirty (30) points in this category whether they apply for a retailer permit or a social equity retailer permit as long as the entity was qualified as a Social Equity Qualified Business when it was conditionally approved for a medical marihuana provisioning center. Applicants with current and final conditional approval for a medical marihuana provisioning center permit pursuant to City of Pontiac's Medical Marihuana Facilities Ordinance, Article XXX, Section 26.1491 et seq may apply for recreational licenses at a different location in any of the four districts allowed under Ordinance #2407,

not only in the district where they were awarded their conditionally approved medical license. The maximum number of scoring points in this category shall be thirty (30) points.

(10) Whether the applicant has rehabilitated and/or redeveloped within three (3) years before the submittal of the application under this ordinance, or will rehabilitate and/or redevelop, an existing building by demolishing and rebuilding or completely renovating a building that has been vacant or had been vacant as registered with the City for one (1) year or more. The maximum number of scoring points in this category shall be ten (10) points.

(11) Whether the applicant has rehabilitated and/or redeveloped within three (3) years before the submittal of the application under this ordinance, or will rehabilitate and/or redevelop, an existing building by demolishing and rebuilding or completely renovating a building that meets the definition of blighted or dangerous as such term is defined in the City's Code of Ordinances. The maximum number of scoring points in this category shall be ten (10) points.

(12) Whether an applicant proposes a social equity plan that promotes and encourages social equity participation and ownership in the marijuana industry by persons who reside in disproportionately impacted communities in those Michigan communities designated by the State of Michigan, who have been disproportionately impacted by marijuana prohibition and enforcement, and to positively impact those communities, in accordance with MCL 333.27958(1)(j). The maximum number of scoring points in this category shall be fifteen (15) points.

(13) Whether an applicant demonstrates social equity participation and greater than 50% ownership by persons who reside in disproportionately impacted communities in those Michigan communities designated by the State of Michigan, who have been disproportionately impacted by marijuana prohibition and enforcement, and to positively impact those communities, in accordance with MCL 333.27958(1)(j). The maximum number of scoring points in this category shall be fifteen (15) points.

(14) Whether an applicant applying for a retailer or social equity retailer permit was the highest scoring conditionally approved medical provisioning center applicant in the zoning district in which the applicant applied, including all those applicants tied for the highest score

in that zoning district. The maximum number of points in this category shall be ten (10) points.

(g) Overall scoring and ranking shall be conducted and applied by the Clerk on the basis of assigned points from zero (0) points to one hundred and eighty five (185) points with the lowest overall total score as zero (0) points and the highest possible total score being one hundred and eighty five (185) points.

(h) At the conclusion of the twenty-one (21) day application period, the Clerk shall begin processing applications for permits to operate retailer establishments, awarding 17 conditional permits to the highest scoring applicants as limited by the applicable overlay zoning districts. In the event of an evaluation scoring tie, which causes there to be more than seventeen (17) applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw and the tie will be resolved through a blind lottery drawing to determine which applicant will receive recommendation for approval. Those applications randomly selected shall be eligible to receive a permit to operate a Retailer. In the event that the number of Retailer permits falls below the maximum number authorized under this ordinance, the clerk shall not be required to score applicants. Instead, the clerk shall evaluate applications in the order that they are submitted and shall award permits for Retailers to an applicant who submits a complete application, receives the approvals required in this section, and meets the requirements of this ordinance. However, in no event shall the number of Retailer permits exceed the maximum number authorized under this ordinance.

(i) At the conclusion of the twenty-one (21) day application period, the Clerk shall begin processing applications for permits to operate Class A Microbusinesses, awarding conditional permits to the five (5) highest scoring applicants as limited by the applicable overlay zoning districts. In the event of an evaluation scoring tie, which causes there to be more than five (5) applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw and the tie will be resolved through a blind lottery drawing to determine which applicant will receive recommendation for approval. Those applications randomly selected shall be eligible to receive a permit to operate a Class A Microbusiness. In the event that the number of Class A Microbusiness permits falls below the maximum number authorized under this ordinance, the Clerk shall not be required to score applicants. Instead, the Clerk shall evaluate applications in the order that they are submitted and shall award permits for

Class A Microbusinesses to an applicant who submits a complete application, receives the approvals required in this section, and meets the requirements of this ordinance. However, in no event shall the number of Class A Microbusiness permits exceed the maximum number authorized under this ordinance.

(j) At the conclusion of the twenty-one (21) day application period, the Clerk shall begin processing applications for permits to operate Designated Consumption Establishments, awarding conditional permits to the three (3) highest scoring applicants for the North of Huron locations. In the event of an evaluation scoring tie, which causes there to be more than three (3) applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw and the tie will be resolved through a blind lottery drawing to determine which applicant will receive recommendation for approval. Those applications randomly selected shall be eligible to receive a permit to operate a Designated Consumption Establishment. In the event that the number of Designated Consumption Establishment permits falls below the maximum number authorized under this ordinance, the Clerk shall not be required to score applicants. Instead, the Clerk shall evaluate applications in the order that they are submitted and shall award permits for Designated Consumption Establishment to an applicant who submits a complete application, receives the approvals required in this section, and meets the requirements of this ordinance. However, in no event shall the number of Designated Consumption Establishment permits exceed the maximum number authorized under this ordinance.

(k) At the conclusion of the twenty-one (21) day application period, the Clerk shall begin processing applications for permits to operate Designated Consumption Establishments, awarding conditional permits to the three (3) highest scoring applicants for the South of Huron locations. In the event of an evaluation scoring tie, which causes there to be more than three (3) applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw and the tie will be resolved through a blind lottery drawing to determine which applicant will receive recommendation for approval. Those applications randomly selected shall be eligible to receive a permit to operate a Designated Consumption Establishment. In the event that the number of Designated Consumption Establishment permits falls below the maximum number authorized under this ordinance, the Clerk shall not be required to score applicants. Instead, the Clerk shall evaluate applications in the order that they are submitted and shall award permits for Designated Consumption Establishment to an applicant

who submits a complete application, receives the approvals required in this section, and meets the requirements of this ordinance. However, in no event shall the number of Designated Consumption Establishment permits exceed the maximum number authorized under this ordinance.

(l) At the conclusion of the twenty-one (21) day application period, the Clerk shall begin processing applications for permits to operate Social Equity Retailer establishments, awarding conditional permits to the six (6) highest scoring applicants as limited by the applicable overlay zoning districts. In the event of an evaluation scoring tie, which causes there to be more than six (6) applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw and the tie will be resolved through a blind lottery drawing to determine which applicant will receive recommendation for approval. Those applications randomly selected shall be eligible to receive a permit to operate a Social Equity Retailer. In the event that the number of Social Equity Retailer permits falls below the maximum number authorized under this ordinance, the clerk shall not be required to score applicants. Instead, the clerk shall evaluate applications in the order that they are submitted and shall award permits for Social Equity Retailers to an applicant who submits a complete application, receives the approvals required in this section, and meets the requirements of this ordinance. However, in no event shall the number of Social Equity Retailer permits exceed the maximum number authorized under this ordinance.

(m) The Clerk will grant a final permit to a retailer, social equity retailer, Class A microbusiness and designated consumption establishment if the applicant obtains final site plan approval and special land use approval within 6 months of receiving a conditional permit, obtains an operating permit from the City and an operating license from the Department within 18 months after the conditional permit is granted, and enters into a written agreement with the City confirming that the marijuana establishment will operate in accordance with the business plans, building plans, design standards, social equity plans and all other operational standards described by the applicant in the application materials submitted. The agreement shall further provide that if the establishment breaches the agreement, then the City may revoke authorization of the establishment following notice and a public hearing, and that in such event, the City shall be entitled to injunctive relief barring further operation of the establishment in the City. An extension of 6 months to obtain an operating permit from the City and an operating license from the

Department may be granted in the discretion of the Clerk upon a showing of good cause for the delay.

(n) Nothing in this section is intended to confer a property or other right, duty, privilege or interest in a permit of any kind or nature whatsoever, including, but not limited to, any claim of entitlement.

(o) The Clerk may engage professional expert consultant assistance in performing the Clerk's duties and responsibilities under this Ordinance.

Sec. 14. Social Equity Retailers

(a) The City has created a permit process to allow state social equity qualifiers to apply for and be awarded social equity retailer permits in zoning districts designated in the City zoning ordinance. The City shall permit six (6) social equity retailer licenses for social equity applicants, including franchisees, who demonstrate and document 51% or more ownership by social equity qualifying applicants, including ownership structure of the entity that identifies the ownership percentage held by each stakeholder.

(b) Social equity applicants for social equity retailer permits may apply for other available adult-use permits including retailer establishment permits, except they may not apply for a Class A microbusiness, safety compliance facility or secure transporter permit. Social equity retailer applicants are limited to one application per location. Multiple applications for the same social equity establishment location shall be disqualified.

Sec. 15. Odor Control.

(a) No Marihuana Business, permittee, person, tenant, occupant, licensee, landlord or property owner shall permit the release of marihuana odors from any origin to cause obvious odors emanating from the premises in which they derived and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor interferes with the reasonable and comfortable use and enjoyment of another's property shall be determined by the objective standards of a reasonable person of normal sensitivity.

(b) Marihuana Businesses shall use sufficient procedures to prevent smoke, odor, debris, dust, fluids and other substances from escaping the premises of the Marihuana Business. If any smoke, odor, debris, dust, fluids or other substances leave the Marihuana Business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the

Marihuana Business and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this chapter.

1. A plan for ventilation of the Marihuana Business that describes the ventilation systems that will be used to prevent any odor of marihuana off the premises of the business. Such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marihuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

2. Cultivated, produced, or distributed by a Marihuana Business. A Marihuana Business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the Marihuana Business or at any adjoining use or property.

3. Sufficient measures and means of preventing smoke, odor, debris, dust, fluids and other substances from exiting a Marihuana Business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana establishment, the owner of the subject premises and the permittee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The Marihuana Business shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Sec. 16. Social Equity

(a) A permittee must use good-faith efforts in hiring employees who have been negatively impacted by marihuana prohibition. Adult-use recreational marihuana businesses should use good-faith efforts to hire and retain 25 percent of its employees who are low income or live in the City of Pontiac.

Sec. 17. Class A Microbusinesses

(a) A Class A microbusiness is subject to all applicable provisions in this Ordinance related to growers, processors, and retailers.

(b) All Class A Microbusinesses, shall comply with all applicable requirements of the City of Pontiac's zoning ordinance except where otherwise specified in this Ordinance.

(c) All Class A Microbusinesses shall be classified as Special Land Uses in the permitted zoning districts.

(d) A masonry screen wall shall be provided along all property lines abutting property that is zoned for residential use, subject to the requirements of the Pontiac Code of Ordinances.

(e) Class A Microbusinesses are prohibited if the location is within 1,000 feet from any pre-existing School; (i) the distance separation requirement between the school and the contemplated location set forth above shall be measured along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the primary point of ingress to the School, and from the primary point of ingress to the contemplated location along the centerline to the primary street address building entrance, regardless of the ownership of property or Permittee.

(f) Class A Microbusinesses located outside of the Downtown Overlay District shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises between the hours of 10:00 p.m. and 7:00 a.m. Class A Microbusinesses located in the Downtown Overlay District shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises, between the hours of 2:00 a.m. and 7:00 a.m.

(g) Drive throughs and drive through, walk-up window service, and curbside service shall be a prohibited use for all Class A Microbusinesses.

Sec. 18. Designated Consumption Establishments.

(a) All Designated Consumption Establishments shall comply with all applicable requirements of the City of Pontiac's zoning ordinance.

(b) Designated Consumption Establishments shall be limited to Downtown Overlay District as identified in the City zoning ordinance and on the City Zoning Map, with three Designated Consumption Establishments permitted north of Huron Street and three Designated Consumption Establishments permitted south of Huron Street.

(c) Designated Consumption Establishments shall be closed for business, and no consumption of marihuana in any form shall occur upon the premises between the hours of 2:00 a.m. and 7:00 a.m.

(d) Designated Consumption Establishments shall be classified as Special Land Uses in the permitted zoning districts.

(e) A masonry screen wall shall be provided along all property lines abutting property that is zoned for residential use, subject to the requirements of the Pontiac Code of Ordinances.

(f) Designated Consumption Establishments are prohibited if the location is within 1,000 feet from any pre-existing School; (i) the distance separation requirement between the school and the contemplated location set forth above shall be measured along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the primary point of ingress to the School, and from the primary point of ingress to the contemplated location along the centerline to the primary street address building entrance, regardless of the ownership of property or Permittee.

(f) A Designated Consumption Establishment shall:

(1) Install and maintain an operable ventilation and filtration system to remove smoke to the outside of the building and eliminate odor at the property line of the premises;

(2) Prominently display a sign near the entrance of the business which carries the following warning:

WARNING: Marihuana use by pregnant or breastfeeding women, or by women planning to become pregnant, may result in fetal injury, preterm birth, low birth weight, or developmental problems for the child.

Sec. 19. Marihuana Business Co-Location and Stacking.

(a) Separate Marihuana Business grower, processor, retailer, social equity retailer, Class A microbusiness, and designated consumption establishment uses, shall be permitted to co-locate at a single property subject to permit approval for each use from the City. Co-located establishments operating at the same location must have permit approval for each Marihuana Business type and use described above.

(b) Consistent with the MRTMA and the Rules, applicants for Class C grower permits shall be allowed to stack and receive multiple Class C grower permits, and to operate under each permit in a single establishment.

Sec. 20. Transfer of Location Prohibited; Transfer of Ownership and Assets.

(a) Transfer of Location Prohibited. Permittees may not transfer a permit issued under this ordinance to a different location. Conditionally approved medical marihuana permit holders may apply for adult-use permits at a different location than the location applied for under the Medical Marihuana Facilities Ordinance, Article XXX , Section 26.1491 et seq. in any of the four zoning districts allowed under Ordinance #2407, not only in the zoning district where the applicant was awarded a conditionally approved medical marihuana permit. Current and final conditionally approved medical marihuana applicants for provisioning center permits who choose to apply under this ordinance at a different location would receive the 30 scoring points under Section 13(f)(9) of this ordinance for the location that had been conditionally approved under the Medical Marihuana Facilities Ordinance Article XXX, Section 26.1491 et seq. Notwithstanding anything to the contrary contained in this Ordinance, no conditionally approved medical marihuana permit holder shall receive the application scoring points in Section 13(f)(9) for more than one application apiece in a zoning district allowed under Ordinance #2407, whether the application is for a retailer permit or a social equity retailer permit.

(b) Transfer of Ownership or Assets. Permittees may apply to the Clerk to transfer ownership or assets of a permittee's business and the permit issued under this ordinance to a different individual or entity, subject to receiving in advance written approval from the Clerk and the Department pursuant to the MRTMA and the Rules. In order to request City approval to transfer ownership or assets and a permit to a different individual or entity, the permittee must make a written request to the Clerk, indicating the current permittee and the proposed permittee. The proposed permittee shall submit a complete application to the Clerk, and the Clerk shall grant the request so long as the proposed permittee meets all requirements outlined in this Ordinance and

the Department authorizes the transfer pursuant to the MRTMA and the Rules. A sale or transfer of an ownership interest of a social equity applicant shall be at a price no less than fair market value and the buyer or transferee shall be qualified as a social equity applicant.

(c) With submission of a complete transfer of ownership or assets application, the proposed permittee for an ownership or asset transfer shall pay a nonrefundable application fee of \$5,000.00, in order to offset costs of the City associated with review of the proposed permittee's qualifications for a permitted marihuana business operation.

Sec. 21. Permits Generally

(a) Permittees shall report any material change in the required information to the Clerk within twenty four (24) hour and shall report any non-material change in the required information to the Clerk within ten (10) business days of the change. Failure to do so may result in a fine, suspension or revocation of the license.

(b) Permit approval shall not be effective, and no Marihuana Business may operate, unless the Marihuana Business has obtained a State License, the site of the proposed use and proposed structure for the Marihuana Business has zoning approval for such use, and the final site plan and special exception permit has been approved by the Planning Commission.

Sec. 22. Term of Marihuana Business Permit.

(a) Approval of a permit shall be for a period of one calendar year subject to continued compliance with this ordinance, the City Code, MRTMA and the Rules.

(b) Each permit for that current year shall be displayed in a conspicuous spot in the location.

(c) A permittee shall remove any expired permit on display and replace it with the current permit. A permittee shall not attempt nor act in any fraudulent manner in regard to the display of any permit.

Sec. 23. Closing of Marihuana Business.

(a) A permittee that closes a Marihuana Business must comply with the requirements issued by the Michigan Cannabis Regulatory Agency.

(b) Within thirty (30) days of a permittee ceasing operations, written notification must be provided to the City Clerk.

(c) The permittee shall furnish to the City a current forwarding address, phone number and email for all permittees.

(d) The permittee shall surrender its Marihuana Business permit to the City upon the expiration of the thirty (30) days' notice to the City.

Sec. 24. Annual Marihuana Business Permit Renewal.

(a) Application for a permit renewal shall be made in writing to the Clerk at least 30 days prior to the expiration of an existing permit. Failure to submit a completed application for renewal of an existing permit along with the required renewal fee to the City Clerk on or before the license expiration date shall be grounds for the revocation or suspension of a permit. Any authorized establishment that has not timely submitted a renewal application as required herein shall suspend all business operations until such time as a renewal permit has been obtained.

(b) An application for permit renewal shall be made under oath on forms provided by the Clerk.

(c) An application for permit renewal shall be accompanied by a renewal fee of \$5,000.00 for each permit to help defray administrative and enforcement costs of the City associated with the operation of the Marihuana Business.

(d) Upon receipt of a completed application for renewal of a permit meeting the requirements of this ordinance and payment of the permit renewal fee, the Clerk shall refer a copy of the renewal application to the fire department and the Community Development Department, planning division, and other appropriate City departments and officials for review.

(e) No application for a permit renewal shall be approved unless:

(1) The fire department and the Community Development Department, planning division, and other appropriate departments have, within the past calendar year, inspected the proposed location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements.

(2) The Community Development Department, planning division, and other relevant departments have confirmed that the location complies with the zoning ordinance.

(3) The permittee possesses the necessary State Operating Licenses in good standing with the Department.

(4) The applicant has operated the Marihuana Business in accordance with the conditions and requirements of this ordinance and the City Code.

(5) The permittee has not been determined to be a public nuisance.

(6) An explanation, with supporting factual data, that the operations of the business have been consistent with all of the plans submitted with its application for a permit, including but not limited to the staffing plan, the neighborhood communication/education plan, and proof of an insurance policy covering the business and naming the City of Pontiac, its elected and appointed officials, employees, and agents, as additional insured parties, primary and non-contributory available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of:

- a. at least Two Million Dollars (\$2,000,000) for property damage;
- b. at least Two Million Dollars (\$2,000,000) for injury to one (1) person; and
- c. at least Two Million Dollars (\$2,000,000) for injury to two (2) or more person resulting from the same occurrence.

The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with state law. The policy shall provide that the City shall be notified by the insurance carrier thirty (30) days in advance of any cancellation or reduction in coverages.

(7) An explanation, with supporting factual data, of the efforts and success achieved by the social equity plan of the business to promote and encourage participation in the marihuana industry by local residents that have been disproportionately impacted by marihuana prohibition and enforcement, and the positive impact of the social equity plan on local residents.

(9) The City Treasurer has confirmed that the applicant and each stakeholder is not in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City.

(10) The City has reviewed the application and determined that the applicant has satisfied the requirements of this Ordinance with respect to the criminal background check and security plan.

(11) Unless the applicant shows good cause, the applicant shall demonstrate to the City Clerk that the applicant was open and conducting business for a minimum of twenty (20) hours per week during each and every week of the prior year. The term “good cause” shall mean substantial grounds, such as an emergency, fire damage, or other unforeseeable circumstances that prevented the applicant from conducting business for a minimum of twenty (20) hours per week during each and every week of the prior year. Economic or financial decisions, or inability to secure capital or financial resources that prevented an applicant from conducting business for a minimum of twenty (20) hours per week during the prior year shall not be good cause.

(f) If written approval is given by each department or entity identified in this section, and the Clerk determines that the applicant has satisfied subsections (a), (b), (c), (d) and (e) of this Section, then the Clerk shall renew the permit of the applicant.

Sec. 25. Denial, Nonrenewal, Suspension, or Revocation of Marihuana Business Permit; Basis for Action; Appeal.

(a) Each Marihuana Business within the City for which a permit is granted shall be operated and maintained in accordance with all applicable City, State and federal laws, rules, and regulations. Any permit issued under this Ordinance may be revoked or suspended by the City after written notice and an administrative hearing if a City official finds and determines that grounds for revocation or suspension exist. Any grounds for revocation or suspension of a permit must be provided to the permittee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the application or any address provided to the Clerk in writing subsequent to the filing of an application. The Clerk shall notify an applicant of the reasons for denial of an application for a permit, for permit renewal, or for suspension or revocation of a permit,

or any adverse decision under this ordinance and provide the applicant or permittee an administrative hearing with the opportunity to be heard.

(b) In addition to any other reasons set forth in this ordinance, the City may refuse to issue a permit, may refuse to grant renewal of a permit, and may suspend or revoke a permit pursuant to Pontiac City Ordinance sections 1-24 or for any of the following reasons:

- (1) A violation of any provision of this Ordinance, including, but not limited to, the failure to provide the information required by this Ordinance;
- (2) Any disqualifying conviction or pattern of convictions by the permittee or any stakeholder of the permittee including any conviction of any felony or any misdemeanor involving controlled substances, theft, or dishonesty by the applicant, permittee, stakeholder, or any person holding an ownership interest in the licensee;
- (3) Failure of the permittee to obtain or maintain a State License or approval pursuant to MRTMA and MMFLA;
- (4) Commission of fraud or misrepresentation or the making of a false statement by the applicant, permittee, or any stakeholder of the applicant or permittee, while engaging in any activity for which this Ordinance requires a permit;
- (5) The Marihuana Business is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare;
- (6) Failure of the permittee to maintain the property causing a blighted or other condition in violation of any City ordinance, including but not limited to, Ord. No. 2355, 8-9-18, or in violation of any state law, including but not limited to, MCL 125.538 to 125.542.
- (7) Any default in the payment of any charges, taxes, or fees, to the City if not cured upon thirty (30) days following notice sent by electronic means or mail to the address of the Marihuana Business. This cure period does not apply to scoring of initial applications for Retailer, Social Equity Retailer, Class A Microbusiness and Designated Consumption Establishment permits;
- (8) Violation of any State law applicable to Marihuana Businesses.

(9) Failure to obtain or maintain a certificate of occupancy from the Building Department;

(10) Failure of the permittee to obtain or maintain a permit or to renew a permit from the City Clerk; or

(11) The establishment's approved site plan is determined to be in substantial violation by the City.

(12) Applicants submitted more than one application for the same location.

(c) Appeal of denial of an application, denial of renewal, or revocation or suspension of a permit: Any applicant or permittee aggrieved by the denial, non-renewal, suspension or revocation of a permit or adverse decision under this ordinance may appeal to the Clerk, by filing with the Clerk, within fourteen (14) days after notice of the action complained of has been mailed or e-mailed to the applicant or to permittee's last known address on the records of the Clerk, a written statement setting forth fully the grounds for the appeal. The Clerk shall appoint a hearing officer to hear and evaluate the appeal and make a written recommendation and report to the Clerk. The Clerk shall review the report and recommendation of the hearing officer and issue a written decision. The Clerk's decision may be appealed to the Marihuana Business Commission by filing an appeal in writing to the Marihuana Business Commission no later than thirty (30) days after the Clerk's decision. The review on appeal of a denial, non-renewal, suspension, or revocation or adverse action shall be by the Marihuana Business Commission pursuant to this ordinance. The Marihuana Business Commission shall overturn a decision or finding of the Clerk if it finds such decision or finding to be arbitrary or capricious and/or not supported by material, substantial, and competent facts on the whole record considered by the Clerk in arriving at such decision or finding. Any decision by the Marihuana Business Commission on an appeal shall be final for purposes of judicial review. The Clerk may engage professional consultants to assist with the review and scoring of applications under this section.

(d) Following the denial of a permit to an applicant for a retailer permit, social equity retailer permit, Class A microbusiness permit or designated consumption establishment permit, and any subsequent appeal during the recommendation and issuance process, the Clerk may move to recommend the application with the next highest number of scoring points as determined in the application process to be awarded a permit.

(e) The City Clerk shall notify the Michigan Cannabis Regulatory Agency of all renewal applications which are renewed or denied, and all permits that are suspended or revoked.

(f) A permittee whose renewal application is denied, must submit a new application as a new applicant.

Sec. 26. Penalties; temporary suspension of a permit.

(a) The City may require an applicant or permittee of a Marihuana Business to produce documents, records, or any other material pertinent to the investigation of an applicant or permittee or to an alleged violation of this Ordinance or state law and rules. Failure to provide the required material may be grounds for application denial, or permit suspension or revocation.

(b) Any person in violation of any provision of this Ordinance, including the operation of a Marihuana Business without a permit shall be responsible for a civil infraction and shall be subject to a civil fine and costs. Increased civil fines may be imposed for a repeat violation. As used in this Ordinance "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or establishment within any twenty-four (24) month period. Unless otherwise specifically provided in this Ordinance, the penalty schedule is as follows:

- (1) Five Hundred Dollars (\$500), plus costs, for the first violation;
- (2) One Thousand Dollars (\$1,000), plus costs, for a repeat violation;
- (3) Three Thousand Dollars (\$3,000), plus costs for any repeat violation that continues for more than one day.

(c) The City may temporarily suspend a Marihuana Business permit without a prior hearing if the City finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The City shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.

(d) If the City temporarily suspends a permit without a prior hearing, the permittee is entitled to a hearing within thirty (30) days after the suspension notice has been served on the permittee or posted on the permitted premises. The hearing shall be limited to the issues cited in the suspension notice.

(e) If the City does not hold a hearing within thirty (30) days after the date the suspension was served on the permittee or posted on the permitted premises, then the suspended permit shall be automatically reinstated and the suspension vacated.

(f) The penalty provisions herein are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

Sec. 27. Severability Clause.

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

Sec. 28. Effective Date.

This Ordinance shall become effective: (a) 30 days following the date of adoption, (b) the effective date of the amendment to ordinance #2360 (removing the prohibition of marihuana establishments); or (c) the effective date of the zoning code text amendments permitting Adult-Use Marihuana Business land uses, whichever is later.

Sec. 29. Publication.

CERTIFICATION

The foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of Pontiac, County of Oakland, State of Michigan, at a regular meeting of the City Council held on 10th day of October, 2023, and public notice of said meeting was given pursuant to and in accordance with the requirements of Act No. 267 of the Public Acts of 1976, as amended, being the Open Meetings Act, and the minutes of said meeting have been or will be made available as required by said Act.

Members Present: Carrington, Goodman, James, Nicholson, Parker and Rutherford

Members Absent: McGuinness

It was moved by Member Carrington and supported by Member Parker to adopt the Ordinance.

Members voting Yes: Carrington, Goodman, James, Nicholson, Parker

Members voting No: None

Members Abstaining: Rutherford

The Ordinance was declared adopted by the Mayor and has been recorded with the City of Pontiac.

Garland Doyle, City Clerk
City of Pontiac, Michigan

ADOPTED:

PUBLISHED:

EFFECTIVE: