

CITY OF PONTIAC
RESOLUTION #18-168
Initiative Ordinances

Motion by Councilmember Woodward, Supported by Councilmember Taylor-Burks to adopt a Resolution to submit the following proposed Initiative Ordinances to be placed on the August 7, 2018 ballot.

Whereas: The proposed Initiative Ordinances shall be submitted to the electors in the following form:

Proposal 1

CITY OF PONTIAC-MEDICAL MARIHUANA FACILITIES LICENSING ORDINANCE

Shall the City of Pontiac, Oakland County, Michigan adopt an Ordinance to allow for Medical Marihuana Facilities which include 20 provisioning centers, and an unlimited number of growers, processors, secured transporters and safety compliance facilities that meet the requirements of State law and applicable City Ordinances consistent with the Medical Marihuana Facilities Licensing Act, 2016 PA 281. A full copy of the proposed City of Pontiac Medical Marihuana Facilities Ordinance is available in the City Clerk's office during normal business hours for review.

Yes

No

Proposal 2

**CITY OF PONTIAC-MEDICAL MARIHUANA FACILITIES LICENSING
ORDINANCE**

Shall the City of Pontiac, Oakland County, Michigan adopt an Ordinance to allow for Medical Marihuana Facilities which include up to 4 provisioning centers, and up to 2 growers, processors, secured transporters and safety compliance facilities that meet the requirements of State law and applicable City Ordinances consistent with the Medical Marihuana Facilities Licensing Act, 2016 PA 281. A full copy of the proposed City of Pontiac Medical Marihuana Facilities Ordinance is available in the City Clerk's office during normal business hours for review.

Yes

No

Proposal 3

**CITY OF PONTIAC-MEDICAL MARIHUANA FACILITIES LICENSING
ORDINANCE**

Shall the City of Pontiac, Oakland County, Michigan adopt an Ordinance Opting Out of having any Medical Marihuana Facilities consisting of provisioning centers, growers, processors, secured transporters and safety compliance facilities that meet the requirements of State law under the Medical Marihuana Facilities Licensing Act, 2016 PA 281. A full copy of

the proposed City of Pontiac Ordinance to Opt Out of Medical Marihuana Facilities is available in the City Clerk's office during normal business hours for review.

Yes

No

THEREFORE, BE IT RESOLVED: The proposed Initiative Ordinances shall be, and the same is hereby ordered to be, submitted to the qualified electors of this City at the August primary election in the City of Pontiac, the 7th day of August, 2018, and the City Clerk is hereby directed to give notice of the election and notice of registration thereof in the manner prescribed by law and to do all things and to provide all supplies necessary to submit the Initiative Ordinances to the vote of the electors as required by law.

Roll Call Vote Showing: Ayes: Taylor-Burks, Williams, Woodward, Carter and Miller

Nays: None

Motion Carried Unanimously.

I, Sheila Grandison, Clerk for the City of Pontiac, Michigan do hereby certify the foregoing to be a true copy of a resolution duly adopted by the Pontiac City Council at their special meeting held on the 14th day of May 2018.

Sheila Grandison, Acting Clerk, City of Pontiac, Michigan

INITIATION OF AN ORDINANCE

An initiation of an ordinance to allow medical marihuana facilities to operate in the City of Pontiac pursuant to the Medical Marihuana Facilities Licensing Act, Act No. 281 of the Public Acts of 2016; to provide for standards and procedures to permit and regulate medical marihuana facilities; to provide for the imposition of permit application fees; and to impose conditions for the operation of medical marihuana facilities.

The City of Pontiac ordains:

Section 1. Title

The title of this ordinance shall be the "City of Pontiac Medical Marihuana Facilities Ordinance."

Section 2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person who applies for a permit to operate a medical marihuana facility under this ordinance.

Board means the State of Michigan Medical Marihuana Licensing Board.

Class A grower means a grower licensed to grow not more than 500 marihuana plants.

Class B grower means a grower licensed to grow not more than 1,000 marihuana plants.

Class C grower means a grower licensed to grow not more than 1,500 plants.

Department means the State of Michigan Department of Licensing and Regulatory Affairs or its successor agency.

Disqualifying felony means a felony that makes an individual ineligible to receive a license under the MMFLA.

Grower means a commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center. As used in this ordinance, grower shall include class A growers, class B growers, and class C growers.

License means a license that is issued under the MMFLA that allows the licensee to operate as a grower, processor, secure transporter, provisioning center, or safety compliance facility.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused products shall not be considered a food for purposes of the food law, Act No. 92 of the Public Acts of 2000, being sections 289.1101 to 289.8111 of the Michigan Compiled Laws.

Medical marihuana facility means a location at which a grower, processor, provisioning center, secure transporter, or safety compliance facility is licensed to operate under the MMFLA.

MMFLA means the Medical Marihuana Facilities Licensing Act, Act No. 281 of the Public Acts of 2016, being sections 333.27101 to 333.27801 of the Michigan Compiled Laws.

MMMA means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, being sections 333.26421 to 333.26430 of the Michigan Compiled Laws.

Permittee means a person who receives a permit to operate a medical marihuana facility under this ordinance.

Processor means a commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Provisioning center means a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the MMMA is not a provisioning center for purposes of this ordinance.

Registered primary caregiver means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has a valid registry identification card.

Registered qualifying patient means a person who has been diagnosed by a physician as having a debilitating medical condition and has a valid registry identification card.

Registry identification card means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

Safety compliance facility means a commercial entity that receives marihuana from a medical marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility.

Secure transporter means a commercial entity located in this state that stores marihuana and transports marihuana between medical marihuana facilities for a fee.

Stakeholder means with the officers, directors, and managerial employees of an applicant and any persons who hold any direct or indirect ownership interest in the applicant.

Section 3. Creation of Medical Marihuana Commission; Composition; Quorum.

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

(b) A quorum of the medical marihuana commission shall consist of three (3) members.

Section 4. Medical Marihuana Commission Membership; Qualifications; Term; Vacancies; Compensation.

(a) Members of the medical marihuana 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.

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- (b) Members of the medical marijuana 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 medical marijuana commission, the mayor shall appoint a new member to fill the vacancy.
- (d) Members of the medical marijuana commission shall serve without pay.

Section 5. Medical Marijuana Commission Powers and Duties.

The medical marijuana commission shall review and decide all appeals that are forwarded to it by the clerk under this ordinance. The medical marijuana commission shall review all appeals de novo. The medical marijuana 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.

Section 6. Medical Marijuana Commission Rules and Regulations; Meetings.

- (a) The medical marijuana 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 medical marijuana commission shall be subject to approval by the council.
- (c) The 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.

Section 7. Medical Marijuana Facility Rules and Regulations.

- (a) In addition to the rules promulgated by the department and the statutes of the State of Michigan, the operation of medical marijuana facilities shall be made in accordance with the provisions of this ordinance.
- (b) Medical marijuana provisioning centers shall be closed for business, and no sale or other distribution of marijuana in any form shall occur upon the premises between the hours of 10:00 p.m. and 7:00 a.m.

Section 8. Medical Marijuana Facility Applications.

- (a) No person shall operate a medical marijuana facility in the city without first obtaining a permit for the medical marijuana facility from the city and obtaining a license from the department.
- (b) In addition to such applications as may be required by the department for licensing by the State of Michigan, application shall be made to the clerk to operate a medical marijuana facility in the city.
- (c) Applications shall be made on forms provided by the clerk, shall be signed by the applicant, if an individual, or by a duly authorized agent thereof, if an entity, verified by oath or affidavit, and seal if available, and shall contain all of the following:
 - (1) The full name, date of birth, physical address, email address, and telephone number of the applicant in the case of an individual; or, in the case of an entity, all stakeholders thereof.
 - (2) If the applicant is an entity, the entity's articles of incorporation or organizational documents.
 - (3) If the applicant is an entity, the entity's employee identification number.
 - (4) If the applicant is an entity, the entity's operating agreement or bylaws.
 - (5) A written description of the training and education that the applicant will provide to all employees.
 - (6) A copy of the proposed business plan for the applicant.
 - (7) The proposed ownership structure of the entity that identifies the ownership percentage held by each stakeholder.
 - (8) A current organization chart that includes position descriptions and the names of each person holding such position.
 - (9) A proposed marketing, advertising, and business promotion plan for the proposed medical marijuana facility.
 - (10) A description of planned tangible capital investment in the city, including detail related to the number and nature of proposed medical marijuana facilities, and whether the locations of such facilities will be owned or leased.
 - (11) An explanation of the economic benefits to the city and job creation to be achieved, including the number and type of jobs the medical marijuana facility is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the medical marijuana facility.
 - (12) A description of the financial structure and financing for the proposed medical marijuana facility.
 - (13) Short-term and long-term business goals and objectives for the proposed medical marijuana facility.
 - (14) A criminal background report of the applicant's criminal history. Such reports shall be obtained by the applicant through the Internet Criminal History Access Tool (ICHAT) for applicants residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants who reside in other states or have resided in other states within 5 years prior to the date of the application. 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.
 - (15) A description of proposed community outreach and education strategies.
 - (16) A description of proposed charitable plans, whether through financial donations or volunteer work.
 - (17) A description of the security plan for the proposed medical marijuana facility that is consistent with the requirements of the department.
 - (18) A floor plan of the proposed medical marijuana facility.
 - (19) A scale diagram illustrating the property upon which the proposed medical marijuana facility is to be operated, including all available parking spaces, and specifying which parking spaces are handicapped-accessible.

- (20) A depiction of any proposed text or graphic materials to be shown on the exterior of the proposed medical marijuana facility.
- (21) A facility sanitation plan that describes how waste will be stored and disposed and how marijuana will be rendered unusable upon disposal at the proposed medical marijuana facility.
- (22) A proposed inventory and recordkeeping plan consistent with the requirements of the department.
- (23) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the city.
- (24) Verification that the applicant has a minimum capitalization consistent with the requirements of the department.
- (25) Proof of premises liability and casualty insurance consistent with the requirements of the department.
- (26) A signed acknowledgement that the applicant understands that all matters related to marijuana cultivation, possession, dispensing, testing, transporting, distribution and use are currently subject to federal laws, and that the approval of a permit hereunder does not exonerate or exculpate the applicant from exposure to any penalties associated therewith. Further, the applicant completely releases and forever discharges the city and its respective employees, agents, facilities, insurers, indemnors, 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 medical marijuana facility.
- (27) A location area map that identifies the relative locations of, and distances from, the nearest school, childcare center, public park containing playground equipment, or religious institution, 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, or religious institution, or, for a public park, from the playground equipment nearest to contemplated location, and from the primary point of ingress to the contemplated location.
- (28) If the applicant is applying for a permit to operate a provisioning center, a patient education plan consistent with the requirements of the department.
- (29) If the applicant is applying for a permit to operate a provisioning center, a description of any drug and alcohol awareness programs that shall be provided or arranged for by the applicant and made available to the public.
- (30) 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, including whether the grower plans to grow outdoors consistent with the rules promulgated by the department.
- (31) If the applicant is applying for a permit to operate a grower, a chemical and pesticide storage plan that is consistent with the requirements of the department.
- (d) All applications must be accompanied by the appropriate fee to help defray administrative costs associated with the application for the medical marijuana facility, which shall be set by a resolution adopted by council, but shall not exceed five thousand dollars (\$5,000.00) per application.
- (e) An applicant may apply for multiple medical marijuana facility permits of the same or different nature.

Section 9. Medical Marijuana Facility Application Process.

- (a) Upon receipt of a completed application meeting the requirements of this ordinance and the appropriate permit application fee, the clerk shall refer a copy of the application to the fire department and the department of building safety & planning.
- (b) No application shall be approved for a permit unless:
 - (1) The fire department and the department of building safety & planning or another relevant department have inspected the proposed location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements.
 - (2) The department of building safety & planning or another relevant department has confirmed that the proposed location complies with the zoning ordinance.
 - (3) The proposed medical marijuana facility has been issued a certificate of occupancy and, if necessary, a building permit.
- (c) After this ordinance becomes effective, the clerk shall begin accepting medical marijuana facility applications within 60 days. Within 7 days of the date the clerk begins accepting medical marijuana facility permit applications, the clerk must set a 21-day application period during which applicants may apply for a permit to operate a provisioning center.
- (d) The clerk shall award a permit to any applicant for a permit to operate a grower, processor, secure transporter, or safety compliance facility who submits a complete application, receives the approvals required in this section, and meets the requirements of this ordinance.
- (e) The clerk shall assess, evaluate, score and rank all applications for permits to operate a provisioning center submitted during the twenty-one (21) day application period set forth in this section.
- (f) In its application assessment, evaluation, scoring, ranking, and deliberations related to permits to operate a provisioning center, the clerk shall assess, evaluate, score, and rank each application based upon a scoring and ranking procedure developed by the clerk 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. The maximum number of scoring points in this category shall be fifty (50) points.
 - (2) Whether the proposed medical marijuana facility will be consistent with land use for the surrounding neighborhood and not have a detrimental effect on traffic patterns and resident safety. The maximum number of scoring points in this category shall be twenty (20) points.
 - (3) Planned outreach on behalf of the proposed medical marijuana facility, and whether the applicant or its stakeholders have made, or plan to make, significant physical improvements to the building housing the proposed medical marijuana facility, including plans to eliminate or minimize traffic, noise, and odor effects on the surrounding neighborhood. The maximum number of scoring points in this category shall be ten (10) points.

- (4) Whether the applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare prior to the date of the application. The maximum number of scoring points in this category shall be ten (10) points. If an applicant and all of its stakeholders have received prequalification approval from the department or board, the applicant shall receive the maximum number of scoring points under this category.
- (5) Whether the applicant has reasonably and tangibly demonstrated it possesses sufficient financial resources to fund, and the requisite business experience to execute, the submitted business plan and other plans required by this ordinance. The maximum number of scoring points in this category shall be ten (10) points. If an applicant and all of its stakeholders have received prequalification approval from the department or board, the applicant shall receive the maximum number of scoring points under this category.
- (6) The number of full-time and part-time positions the applicant intends to create; the hourly wages or salaries the applicant intends to pay employees; whether the applicant has articulated plans and strategies to attract and hire employees from the City of Pontiac; 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 maximum number of scoring points in this category shall be ten (10) points.
- (7) Planned philanthropic endeavors and community improvement programs aimed at the City of Pontiac. The maximum number of scoring points in this category shall be ten (10) points.
- (8) The proximity of the proposed medical marijuana facility to other structures, including whether the proposed medical marijuana facility is more than 1,000 feet from an operational public or private school and more than 500 feet from an operational commercial childcare organization (non-home occupation) that is licensed or registered with the State of Michigan Department of Health and Human Services or its successor agency, a public park with playground equipment, or a religious institution that is defined as tax exempt by the city assessor. Such distance between the school, childcare center, public park, or religious institution and the contemplated location 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, childcare center, or religious institution, or from the playground equipment in a public park, and from the primary point of ingress to the contemplated location. The maximum number of scoring 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 thirty (130) points with the lowest overall total score as zero (0) points and the highest possible total score being one hundred and thirty (130) points.
- (h) At the conclusion of the twenty-one (21) day application period, the clerk shall begin processing applications for permits to operate provisioning centers, awarding permits to the twenty (20) highest scoring applicants. In the event of an evaluation scoring tie, which causes there to be more than twenty (20) applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw. Those applications randomly selected shall be eligible to receive a permit to operate a provisioning center. In the event that the number of provisioning center permits subsequently 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 provisioning centers 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 provisioning center permits exceed the maximum number authorized under this ordinance.
- (i) 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.
- (j) The clerk may engage professional expert assistance in performing the clerk's duties and responsibilities under this ordinance.

Section 10. Medical Marijuana Facility Permit Limitations.

There shall be no limit on the number of permits issued by the city for growers, processors, secure transporters, or safety compliance facilities. The city shall issue twenty (20) provisioning center permits or a number of provisioning center permits equal to the number of complete provisioning center permit applications that meet the requirements of this ordinance and are submitted during the twenty-one (21) day period, whichever number is less.

Section 11. Medical Marijuana Facility Co-Location and Stacking.

- (a) Consistent with the MMFLA and rules promulgated by the department, any combination of growers, processors, and provisioning centers may operate as separate medical marijuana facilities at the same physical location.
- (b) Consistent with the MMFLA and rules promulgated by the department, applicants for class C grower permits shall be allowed to receive multiple such permits and operate under each permit in a single facility.

Section 12. Transfer of Existing Medical Marijuana Facility Permits.

- (a) Permittees may transfer a permit issued under this ordinance to a different location upon receiving written approval from the clerk and the department or the board pursuant to the MMFLA and rules promulgated by the department. In order to request municipal approval to transfer a permit location, the permittee must make a written request to the clerk, indicating the current location of the medical marijuana facility and the proposed new location. Upon receiving the written request, the clerk shall refer a copy of the written request to the fire department and the department of building safety & planning or another appropriate department. No permit transfer shall be approved unless each such department or entity gives written approval that the proposed permit location meet the standards identified in this ordinance and the department or board approves the transfer.
- (b) Permittees may transfer a permit issued under this ordinance to a different individual or entity upon receiving written approval from the clerk and the department or the board pursuant to the MMFLA and rules promulgated by the department. In order to request municipal approval to transfer 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 clerk shall grant the request so long as the department or board authorizes the transfer pursuant to the MMFLA and rules promulgated by the department.

Section 13. Term of Medical Marijuana Facility Permit.

- (a) Each permit shall be displayed in a conspicuous spot in the building for that current year.
- (b) 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.
- (c) Approval of a permit shall be for a period of one calendar year subject to review by the clerk upon continued compliance with the regulations of this article.

Section 14. Annual Medical Marijuana Facility 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.

(b) An application for a permit renewal required by this ordinance shall be made under oath on forms provided by the clerk, and shall contain all of the information required in an initial application.

(c) An application for a permit renewal shall be accompanied by a renewal fee to help defray administrative and enforcement costs associated with the operation of the medical marijuana facility, which shall be set by resolution of the council, but shall not exceed five thousand dollars (\$5,000.00).

(d) Upon receipt of a completed application for a permit renewal meeting the requirements of this ordinance and the permit renewal fee, the clerk shall refer a copy of the renewal application to the fire department and the department of building safety & planning.

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

(1) The fire department and the department of building safety & planning or another relevant department 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 department of building safety & planning or another relevant department has confirmed that the location complied with the zoning ordinance at the time the permit was granted.

(3) The permittee possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA.

(4) The applicant has operated the medical marijuana facility in accordance with the conditions and requirements of this ordinance.

(5) The permittee is operating the medical marijuana facility in accordance with State of Michigan laws and rules and this ordinance, and has not been declared a public nuisance.

(f) If written approval is given by each department or entity identified in this section, the clerk shall issue a permit renewal to the applicant. The renewal shall be deemed approved if the city has not issued formal notice of denial within 60 days of the filing date of the application.

Section 15. Revocation or Suspension of Medical Marijuana Facility Permit.

Each medical marijuana facility within the city for which a permit is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations. Upon any violation of this section or any section of this ordinance, the clerk may, after a notice and hearing, revoke or suspend such permit as hereinafter provided.

Section 16. Procedure for Denial, Recommendation of Nonrenewal, Suspension, or Revocation of Medical Marijuana Facility Permit.

The clerk shall notify an applicant of the reasons for denial of an application for a permit or permit renewal or for revocation of a permit or any adverse decision under this ordinance and provide the applicant or permittee with the opportunity to be heard. Any applicant or permittee aggrieved by the denial or revocation of a permit or adverse decision under this ordinance may appeal to the clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the clerk. Such appeal shall be taken by filing with the clerk, within fourteen (14) days after notice of the action complained of has been mailed to the applicant or 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 review the report and recommendation of the hearing officer and make a decision on the matter. The clerk's decision may be further appealed to the medical marijuana commission if applied for in writing to the medical marijuana commission no later than thirty (30) days after the clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the medical marijuana commission pursuant to this ordinance. Any decision by the medical marijuana commission on an appeal shall be final for purposes of judicial review. The clerk may engage professional experts to assist with the proceedings under this section.

Section 17. Criteria for Denial, Nonrenewal, Suspension, or Revocation of Medical Marijuana Facility Permit.

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

(1) A material violation of any provision of this ordinance.

(2) Any conviction of a disqualifying felony by the permittee or any stakeholder of the permittee.

(3) Failure of the permittee or the medical marijuana facility to obtain or maintain a license from the state pursuant to the MMFLA.

Section 18. Penalties.

Any person in violation of any provision of this ordinance, including the operation of a medical marijuana facility without a permit issued pursuant to this ordinance, shall be subject to a five hundred dollar (\$500.00) civil fine and costs. Each day of a violation may be considered a separate violation.

Section 19. Severability; Conflicts.

(a) If any section, clause, or provision of this ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this ordinance, but the remainder of this ordinance shall stand and be in full force and effect.

(b) If any section, clause, or provision of this ordinance is determined by a court of competent jurisdiction to conflict with the MMFLA, state law, or rules promulgated by the department, the MMFLA, state law, or rules shall control.

Section 20. Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

CITY OF PONTIAC
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER __ ENTITLED PONTIAC CODE OF ORDINANCES FOR THE CITY OF PONTIAC TO ADD ARTICLE __ TO CHAPTER __ LICENSES RELATED TO MEDICAL MARIHUANA FACILITIES.

THE CITY OF PONTIAC ORDAINS:

Section 1. Chapter __ of the Pontiac Code of Ordinances is hereby Amended to add Article __ to read as follows:

Article IV. Medical Marihuana Establishment Licenses.

- Sec. 30-70. Definitions, Interpretation and Conflicts.
- Sec. 30-71. License Allocation and Annual Fees.
- Sec. 30-72. Medical Marihuana Facility License Application.
- Sec. 30-73. Minimum Operational Standards of Medical Marihuana Provisioning Centers.
- Sec. 30-74. Minimum Operational Standards of Medical Marihuana Grower Facilities.
- Sec. 30-75. Minimum Operational Standards of Safety Compliance Facilities.
- Sec. 30-76. Minimum Operational Standards of a Processor.
- Sec. 30-77. Location of Medical Marihuana Provisioning Centers.
- Sec. 30-78. Location of Medical Marihuana Facilities Other Than Provisioning Centers.
- Sec. 30-79. Denial and Revocation.
- Sec. 30-80. Penalties and Discipline.

30-70. – Definitions, Interpretation and Conflicts.

For the purposes of this chapter:

(a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended (“MMMA”), shall have the definition given in the Michigan Medical Marihuana Act, as amended. If the definition of a word or phrase set forth below conflicts with the definition in the MMMA, or if a term is not defined but is defined in the MMMA, then the definition in the MMMA shall apply.

(b) Any term defined by 21 USC 860(e) shall have the definition given by 21 USC 860(e).

(c) This Ordinance shall not limit an individual’s or entity’s rights under the MMMA. The MMMA supersedes this Ordinance where there is a conflict between them.

(d) All activities related to Medical Marihuana, including those related to a Medical Marihuana Provisioning Center, a Medical Marihuana Cultivation Facility, Secure Transporter, Processor or a Safety Compliance Facility shall be in compliance with the Medical Marihuana Facilities Licensing Act (“MMFLA”) and the rules of the Michigan Department of Licensing and Regulatory

Affairs (“LARA”) or any successor agency, rules, and regulations of the City of Pontiac, and the MMMA.

(e) Any use which purports to have engaged in the cultivation or processing of Medical Marihuana into a usable form, or the distribution of Medical Marihuana, or the testing of Medical Marihuana either prior to enactment of said act, or after enactment of said act but without obtaining the required licensing set forth in this Ordinance, shall be deemed to not be a legally established use, and therefore not entitled to legal nonconforming status under the provisions of this Ordinance and/or state law.

(f) The following terms shall have the definitions given:

“Cultivation” or “Cultivate” as used in this Ordinance shall mean (i) all phases of growth of marihuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana; or (iii) to the extent permitted by the MMMA, if at all, the extraction of resin from the marihuana or the creation of marihuana infused products for sale or packaged form to a Medical Marihuana Provisioning Center.

“Medical Marihuana” means any marihuana intended for medical use that meets all requirements for Medical Marihuana contained in the MMMA and any other applicable law.

“Medical Marihuana Provisioning Center” means a licensee that is a commercial entity located in the City that has a license from the State and the City that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Medical Marihuana Provisioning Center includes any industrial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department’s marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a Medical Marihuana Provisioning Center for purposes of this ordinance.

“Medical Marihuana Grower Facility” means a licensee that is a commercial entity located in the City and is licensed by the State and City that cultivates, dries, trims or cures and packages marihuana for sale to a Processor or Medical Marihuana Provisioning Center that is licensed for 500, 1,000, or 1,500 marihuana plants.

“Medical Marihuana Facility” term used to collectively refer to a licensee under this Chapter.

“Person” means an individual, partnership, firm, company, corporation, association, sole proprietorship, limited liability company, joint venture, estate, trust, or other legal entity.

“Processor” means a licensee that is a commercial entity located in this City that has a license issued by the State and City that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a Medical Marihuana Provisioning Center.

“Safety Compliance Facility” means a licensee that is a commercial entity that is licensed by the State and City that receives marihuana from a Medical Marihuana Facility or a registered qualifying patient or a registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, and returns it to the Medical Marihuana Facility or a registered qualifying patient or registered primary caregiver with the test results.

“Secure Transporter” means a licensee that is licensed by the State and City that is a commercial entity located in this City that stores marihuana and transports marihuana between Medical Marihuana Facilities for a fee.

“Stakeholder” means, with respect to a trust, the beneficiaries, with respect to a limited liability company, the managers or members, with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholder, and with respect to a partnership or limited liability partnership, the partners, both general and limited.

“Restricted/Limited Access Area” means, a building, room or other area under the control of the licensee with access limited to qualifying patients, designated caregivers, staff members, and other licensee agents or service professionals conducting business within the licensed Facility.

30-71. – License Allocation and Annual Fees.

(a) No person shall operate a Medical Marihuana Provisioning Center, Medical Marihuana Grower Facility, Processor Facility, Safety Compliance Facility or Secured Transporter License in the City of Pontiac without first obtaining a license to do so from the City Clerk and the State of Michigan.

(b) The City Clerk may issue up to four (4) licenses for Medical Marihuana Provisioning Centers, up to two (2) licenses for Grower Facilities, up to two (2) for Processor Facilities, up to two (2) Safety Compliance Facilities, and up to two (2) Secure Transporter Licenses, whether profit or non-profit. The term of each license shall be one (1) year and shall be renewed annually unless revoked per Section 30-79.

(c) The non-refundable one-time application fee for a Medical Marihuana Facility license shall be up to \$5,000.00 as determined by Council by resolution. The first year and each succeeding year the annual fee for a Medical Marihuana Facility License shall be \$5,000.00 to help defray administrative and enforcement costs associated with the operation of a Marihuana Facility in the City.

(d) As set forth in paragraph (c) above, no one individual or Stakeholder shall be allowed to have more than one license for each category of the Medical Marihuana Facilities, except as allowed by State law. The term of each license shall be one (1) year, and shall be renewed annually unless revoked per Section 30-79.

30-72. – Medical Marihuana Facility License Applications.

(a) Application for a Medical Marihuana Facility license required by this Chapter shall be made under oath and in writing to the City Clerk on a form approved by the Clerk, and approved by the State of Michigan, if required, prior to commencing operation of a Medical Marihuana Facility. Upon the expiration of an existing license, a license will be automatically renewed by the City of Pontiac if (1) there are no uncured administrative violations in the prior year; and (2) the applicant has paid the annual licensing fee for the renewal period; and (3) any Stakeholder changes have been fully disclosed to the City of Pontiac.

(b) An application for a Medical Marihuana Facility license required by this chapter shall contain the following:

(1) The appropriate non-refundable application fee and the refundable licensee fee in the amount per section 30-71(c);

(2) If the applicant is a sole proprietorship, the applicant's name, date of birth, physical address, copy of photo identification, email address, and one or more phone numbers, including emergency contact information;

(3) If the applicant is not an individual, the names, dates of birth, physical addresses, copy of photo identification, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of the highest-ranking stakeholder as an emergency contact person and contact information for the emergency contact person. Articles of Incorporation, assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and the operating agreement of the applicant, if a limited liability company;

(4) The name and address of the proposed Medical Marihuana Facility and any additional contact information deemed necessary by the City Clerk;

(5) For the applicant, for each stakeholder of the applicant, and each agent or employee of the applicant, an affirmation under oath as to whether they are at least 21 years of age and have never been indicted for, charged with, arrested for, convicted of or pled guilty or nolo contendere to a felony or controlled substance related misdemeanor; and if not the case, then the name and location of the court, arresting agency, and prosecuting agency, the case caption, the offense, the disposition, and the location and length of incarceration;

(6) A signed release authorizing the Oakland County Sheriff's Department to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, each operator and employee of the applicant meet the criteria set forth in this Ordinance;

(7) The name, date of birth, physical address, copy of photo identification, and email address for any operator or employee of the Medical Marihuana Facility, if other than the applicant;

(8) An affirmation under oath as to whether the applicant or operator has had a business license revoked or suspended, and if revoked or suspended, then the reason therefore;

(9) Proof that the applicant, operator and their employees are primary caregivers, only if required under the MMMA;

(10) One of the following: (a) proof of ownership of the entire premises wherein the Medical Marihuana Facility is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this chapter along with a copy of the lease for the premises;

(11) Proof of an insurance policy covering the Medical Marihuana Facility and naming the City as an additional insured party, 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 one million (\$1,000,000.00) dollars for property damage; (b) at least two million (\$2,000,000.00) dollars for injury to one person; and (c) at least four million (\$4,000,000.00) dollars for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum a.m. Best company insurance ranking of B+;

(12) A description of the security plan that complies with LARA requirements for the Medical Marihuana Facility, including, but not limited to, any lighting alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the Facility and premises. The security plan must contain the specification details of each piece of security equipment and be approved by the Oakland County Sheriff's Department;

(13) A Floor Plan or blueprint drawn to scale by a State of Michigan licensed engineer or architect showing the footprint of building, lot lines, setbacks, all dimensions, and elevations of the Medical Marihuana Facility building. The quality of the improvements to an existing building will be considered in determining the successful Licensees;

(14) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City. Specifically, that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligations to the City;

(15) An affidavit that the transfer of marihuana to and from Medical Marihuana Facilities shall be in compliance with the MMFLA;

(16) A Staffing Plan;

(17) Any proposed text or graphical materials to be shown on the exterior of the proposed Medical Marihuana Facility;

(18) Patient Education plan;

(19) Description of the process for tracking quantities and inventory controls for Medical Marihuana in any form;

(20) A Business Plan;

(21) Community Benefit: While applicants are not required to agree to the below community benefits, applicants may agree to all or parts of the community benefits set forth below and receive the additional points set forth below in scoring these applications.

1. Agree that 30% of applicant's employees at the Pontiac facilities on a calendar year basis will be residents of Pontiac. This will be determined by a review of payroll records after the end of each calendar year. If applicant fails to meet this requirement it will pay to the City as a penalty 8% of the gross revenue of the Pontiac facilities for the calendar year in which the required percentage is not complied with – 10 points will be awarded for agreeing to this provision.

2. Agrees to pay at least \$16.00 per hour to all the employees working at the Pontiac facilities who are not managers in each calendar year. Compliance will be determined by a review of payroll records of the Pontiac facilities after the end of each calendar year. In any calendar year in which applicant fails to meet this requirement it will receive notice from the City and applicant must comply within 90 days after which time a second review of the payroll records shall be performed to determine if there is compliance. If applicant fails, the second audit it will receive notice of non-renewal of its license at the end of its current license - 5 points will be awarded for agreeing to this provision.

(22) A location area map of the Medical Marihuana Facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject Facility's property line) to the subject Medical Marihuana Facility to the closest real property comprising a public or private elementary, vocational or secondary school; or another licensed Medical Marihuana Facility, or any liquor store establishment;

(23) A Facility Sanitation Plan that complies with LARA regulations and protects against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;

(24) Verification, with copies of actual bank statements, showing that the applicant has liquid funds in the applicant's name in the amount needed to complete the Medical Marihuana Facility, but in no event less than the capitalization requirements of LARA regulations;

(25) As it relates to a Medical Marihuana Grower Facility, the following additional items shall be required:

(i) A Cultivation Plan that includes at a minimum a description of the cultivation methods to be used, including plans for the growing mediums, treatments and/or additives;

(ii) A Product Testing Plan that includes at a minimum a description of how and when samples for laboratory testing will be selected, what type of testing will be requested, and how the test results will be used that complies with the requirements of LARA regulations;

(iii) An affidavit that at least one primary caregiver, if required and permitted under the MMFLA or MMMA, is to be involved in cultivation of Marihuana Grower Facility and no more than the permitted number of Medical Marihuana plants per the MMMA, as amended, and the MMFLA will be cultivated on the premises at any one time;

(iv) A Chemical and Pesticide Storage Plan that states the names of pesticides to be used in cultivation and where and how pesticides and chemicals will be stored in the Facility, along with a plan for the disposal of unused pesticides;

(v) All cultivation must be performed indoors or in an enclosed greenhouse;

(vi) A Plan for the storage of marihuana product(s) that complies with the requirement of LARA regulations.

(c) Prior to receipt of a completed Medical Marihuana Facility application meeting the requirements of this chapter, the Clerk shall establish a 45-day period in which applications will be accepted by the Clerk. The City Clerk shall refer a copy of the application received during the 45-day period to the Administration for their review and approval. Once applications are verified by each department to be sufficiently complete and comprehensive, and in compliance with the City ordinances and State law they will be forwarded to the Mayor's office for review and determination of the number of points each applicant shall receive for the Community benefits agreed to and for final approval as outlined in the approval process in paragraph (e) of this subsection, below.

(d) No application shall be approved unless:

(1) Prior to occupancy, the Fire Department and the Building Safety Office have inspected the proposed location for compliance with all laws for which they are charged with enforcement and have certified compliance with the City Fire Code and Building Code;

(2) The applicant, each stakeholder of the applicant, and the employees and operators of the applicant, have passed a criminal background check conducted by the Police Department;

(3) Prior to occupancy, the Zoning Administrator has confirmed that the proposed location complies with the Zoning Code and RFP;

(4) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the City;

(5) The City Attorney has completed a detailed review of the Medical Marihuana Facility application for compliance with State law and City ordinances;

(6) If the proposed location is not owned by the license requestor, a notarized acknowledgement document executed by the owner of the property approving the purpose shall be required.

(e) If written approval is given by each individual or department identified in Subsection (c), the Administration shall decide how many of the licenses set forth in section 30-71(b) are to be issued. The Administration will then select from the approved applicants the applicants with the highest score. If there are applications with the same score that are eligible for a license they will be chosen by lottery. All licenses issued are contingent upon the State of Michigan issuing a license for the operation under State law. All licenses are a revocable privilege granted by the City and are not a property right; The Council by resolution can establish subsequent period to accept applications if not all of the licenses are issued in the initial selection, all subsequent licenses to be issued shall follow the above procedures.

(f) Licensees shall report any other change in the information required by Subsection (b) to the City Clerk within ten days of the change. Fees shall be set by Council Resolution for any stakeholder added after the original Application is filed; and

30.73. - Minimum Operational Standards of Medical Marihuana Provisioning Centers.

(a) No Medical Marihuana Provisioning Center shall be open between the hours of 9 p.m. and 9 a.m.;

(b) Consumption of marihuana shall be prohibited on the premises of a Medical Marihuana Provisioning Center, and a sign shall be posted on the premises of each Medical Marihuana Provisioning Center indicating that consumption is prohibited on the premises;

(c) Medical Marihuana Provisioning Centers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras that operate 24-hours a day, 7-days a week. The video recordings shall be maintained in a secure, off-site location for a period of 30 days;

(d) Unless permitted by the MMMA, public or common areas of the Medical Marihuana Provisioning Center must be separated from restricted or non-public areas of the Provisioning Center by a permanent barrier. Unless permitted by the MMMA, no Medical Marihuana is permitted to be stored or displayed in an area accessible to the general public;

(e) All Medical Marihuana storage areas within Medical Marihuana Provisioning Centers must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA, no Medical Marihuana is permitted to be stored in an area accessible by the general public or registered customer/patients. Medical Marihuana may be displayed in a sales area only if permitted by the MMMA;

(f) Any usable Medical Marihuana remaining on the premises of a Medical Marihuana Provisioning Center while the Medical Marihuana Provisioning Center is not in operation shall be secured in a safe permanently affixed to the premises;

(g) Drive-through window on the premises of a Medical Marihuana Provisioning Center shall not be permitted;

(h) No Medical Marihuana Provisioning Center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the Medical Marihuana Provisioning Center is operated;

(i) The license required by this chapter shall be prominently displayed on the premises of a Medical Marihuana Provisioning Center;

(j) Disposal of Medical Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law;

(k) All Medical Marihuana delivered to a patient shall be packaged and labeled as provided by State law;

(l) All registered patients must present both their Michigan Medical Marihuana patient/caregiver ID card and Michigan state ID prior to entering restricted/limited areas or non-public areas of the Medical Marihuana Provisioning Center, and if no restricted/limited area is required, then promptly upon entering the Medical Marihuana Provisioning Center;

(m) The premises shall be open for inspection and/or investigation at any time by City investigators during the stated hours of operation and as such other times as anyone is present on the premises;

(n) It shall be prohibited to display any signs that are inconsistent with local laws or regulations or State law;

(o) It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors or in violation of LARA regulations;

(p) It shall be prohibited to use the symbol or image of a marihuana leaf in any exterior building signage;

(q) No licensed Medical Marihuana Provisioning Center shall place or maintain, or cause to be placed or maintained, an advertisement of Medical Marihuana in any form or through any medium:

(1) Within one thousand feet of the real property comprising a public or private elementary, vocational or secondary school;

(2) Within one hundred feet of a public or private youth center, public swimming pool or a church or other structure in which religious services are conducted.

30-74. - Minimum Operational Standards of Medical Marihuana Grower Facilities.

(a) The following minimum standards for Medical Marihuana Grower Facilities shall apply:

(1) The Medical Marihuana Grower Facility shall comply at all times and in all circumstances with the MMMA, MMFLA, and the general rules of the department of licensing and regulatory affairs, as they may be amended from time to time.

(2) Consumption and/or use of Medical Marihuana shall be prohibited at the Cultivation Facility;

(3) All activity related to the Cultivation Facility shall be done indoors;

(4) The premises shall be open for inspection and investigation by City investigators of possible violation of State or City laws during the stated hours of operation and as such other times as anyone is present on the premises;

(5) Any Medical Marihuana Grower Facility shall maintain a log book and/or database identifying by date the amount of Medical Marihuana and the number of Medical Marihuana plants on the premises which shall not exceed the amount permitted under the Grower License issued by the State of Michigan. This log shall be available to law enforcement personnel to confirm that the Medical Marihuana Grower does not have more Medical Marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of Medical Marihuana at the Facility;

(6) All Medical Marihuana plants will be tagged with tracking identification as required by LARA regulations;

(7) All Medical Marihuana shall be contained within the building in a locked Facility in accordance with the MMMA and MMFLA, as amended;

(8) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located;

(9) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Pontiac Fire Department to insure compliance with the Michigan Fire Protection Code;

(10) The dispensing of Medical Marihuana at the Medical Marihuana Grower Facility shall be prohibited;

(11) There shall be no other accessory uses permitted within the same Facility other than those associated with cultivating, processing, or testing Medical Marihuana;

(12) All persons working in direct contact with Medical Marihuana shall conform to hygienic practices while on duty, including but not limited to:

(i) Maintaining adequate personal cleanliness;

(ii) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.

(iii) Refraining from having direct contact with Medical Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected;

(13) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marihuana is exposed;

(14) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;

(15) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests;

(16) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition;

(17) Each Cultivation Center shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;

(18) Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;

(19) Medical Marihuana Grower Facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind;

(20) Medical Marihuana Grower Facilities shall produce no products other than useable Medical Marihuana intended for human consumption; and

(21) No Medical Marihuana Grower Facility shall be operated in a manor creating noise, dust, vibrations, glare, fumes or odors detectible to the normal senses beyond the boundaries of the property on which the Medical Marihuana Grower Facility operates.

(b) Exterior signage or advertising identifying the facility as a Medical Marihuana Grower Facility shall be prohibited.

30-75. - Minimum Operational Standards of Safety Compliance Facilities.

(a) The following minimum standards for Safety Compliance Facilities shall apply:

(1) The Safety Compliance Facility shall comply at all times and in all circumstances with the MMMA, MMFLA, and the general rules of the department of licensing and regulatory affairs, as they may be amended from time to time;

(2) Consumption and/or use of Medical Marihuana shall be prohibited at the Facility;

(3) The premises shall be open for inspection and investigation at any time by City investigators of possible violations of State and City laws during the stated hours of operation and as such other times as anyone is present on the premises;

(4) Any Safety Compliance Facility shall maintain a log book and/or database identifying by date the amount of Medical Marihuana on the premises and from which particular source. The Facility shall maintain the confidentiality of qualifying patients in compliance with the Michigan Medical Marihuana Act, as amended;

(5) All Medical Marihuana shall be contained within the building in an enclosed, locked Facility in accordance with the MMMA and MMFLA, as amended;

(6) There shall be no other accessory uses permitted within the same Facility other than those associated with testing Medical Marihuana;

(7) All persons working in direct contact with Medical Marihuana shall conform to hygienic practices while on duty;

(8) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner as approved by the City so that they do not constitute a source of contamination in areas where Medical Marihuana is exposed;

(9) Floors, walls and ceilings shall be constructed in such a manner that they may adequately cleaned and kept clean and in good repair;

(10) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition;

(11) Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

(12) No Safety Compliance Facility shall be operated in a manor creating noise, dust, vibrations, glare, fumes or odors detectible to the normal senses beyond the boundaries of the property on which the Safety Compliance Facility operates.

(b) Exterior signage or advertising identifying the facility as a Medical Marihuana Safety Compliance Facility shall be prohibited.

30-76. - Minimum Operational Standards of Processor.

(a) The following minimum standards for Processor shall apply:

(1) The Processor shall comply at all times and in all circumstances with the MMMA, MMFLA, and the general rules of the department of licensing and regulatory affairs, as they may be amended from time to time;

(2) Consumption and/or use of Medical Marihuana shall be prohibited at the Cultivation Facility;

(3) The premises shall be open for inspection and investigation at any time by City investigators for possible violation(s) of State and City laws during the stated hours of operation and as such other times as anyone is present on the premises;

(4) Any Processor Facility shall maintain a log book and/or database identifying by date the amount of Medical Marihuana and the number of Medical Marihuana plants on the premises which shall not exceed the amount permitted under the Processor license issued by the State of Michigan. This log shall be available to law enforcement personnel to confirm that the Processor does not have more Medical Marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of Medical Marihuana at the Facility;

(5) All Medical Marihuana plants will be tagged and labeled for tracking identification as required under LARA regulations with unique identification at a minimum.

(7) All Medical Marihuana shall be contained within the building in a locked Facility in accordance with the MMMA and MMFLA, as amended;

(8) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located;

(9) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Pontiac Fire Department to insure compliance with the Michigan Fire Protection Code;

(10) The dispensing of Medical Marihuana at the Processor Facility shall be prohibited;

(11) There shall be no other accessory uses permitted within the same Facility other than those associated with processing. Multi-tenant commercial buildings may permit accessory uses in suites segregated from Processor Facility;

(12) All persons working in direct contact with Medical Marihuana shall conform to hygienic practices while on duty, including but not limited to:

(i) Maintaining adequate personal cleanliness;

(ii) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.

(iii) Refraining from having direct contact with Medical Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected;

(13) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marihuana is exposed;

(14) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;

(15) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests;

(16) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition;

(17) Each Processor Facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;

(18) Medical Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;

(19) Processor Facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind;

(20) Processor Facilities shall produce no products other than useable Medical Marihuana intended for human consumption; and

(21) No Processor Facility shall be operated in a manner creating noise, dust, vibrations, glare, fumes or odors detectible to the normal senses beyond the boundaries of the property on which the Processor Facility operates.

(b) Exterior signage or advertising identifying the Facility as a Processor Facility shall be prohibited.

30-77. - Location of Medical Marihuana Provisioning Centers.

(a) No Medical Marihuana Provisioning Center shall be located within 1,000 feet of real property comprising a public or private elementary, vocational or secondary school, within 1,000 feet of a church or 1,000 feet of an established liquor sales business or within 400 feet of the front door of a residentially occupied property;

30-78. - Location of Medical Marihuana Facilities, Other Than Provisioning Centers.

(a) No Medical Marihuana Facility shall be located within 1,000 feet of real property comprising a public or private elementary, vocational, or secondary school; or within 1,000 feet of a church or 1,000 feet of an established liquor sales business.

(b) All Medical Marihuana Facilities shall be limited to the Industrial Zoning Districts as identified in the City Zoning Ordinance.

30-79. - Denial and Revocation.

(a) A license issued under this chapter may be revoked after an administrative hearing at which the City Clerk determines that any grounds for revocation under Subsection (b) exist. Notice of the time and place of the Hearing and the grounds for revocation must be given to the Licensee at least five days prior to the date of the Hearing, by first class mail to the address given on the license application or any address provided pursuant to Section 30-72;

(b) A license issued under this Chapter may be revoked or not renewed on any of the following basis:

(1) Violation of this Chapter, the Medical Marihuana Facility Licensing Act, and any regulation promulgated by LARA;

(2) Any conviction of or release from incarceration for a felony under the laws of this State, any other state, or the United States within the past five (5) years by the Applicant or any stakeholder of the Applicant as measured from the date of the Application or the date of becoming a stakeholder, whichever occurs later, or while licensed under this Chapter; or any conviction of a substance-related felony by the Applicant or any stakeholder of the Applicant ever or while licensed under this Chapter;

(3) Commission of fraud or misrepresentation or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any activity for which this Chapter requires a license;

(4) Sufficient evidence that the Applicant(s) lack, or has failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Chapter and the rules and regulations governing the Medical Marihuana Program in the State of Michigan; and

(5) The Medical Marihuana Establishment is determined by the City to have become a public nuisance;

30-80. - Penalties and Discipline.

(a) The City of Pontiac may require an Applicant or Licensee of a Medical Marihuana Facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter or State law. Failure to provide the required material may be grounds for license revocation or discipline;

(b) Any person in violation of any provision of this chapter or any provision of a license issued under this chapter is responsible for a misdemeanor, punishable by a fine of up to \$500.00 plus cost of prosecution, 90 days imprisonment, or both, or each violation. This section is not intended to prevent enforcement of any provision of other ordinances or of the State law by the Oakland County Sheriff's Department;

(c) All fines imposed under this Chapter shall be paid within 45 days after the effective date of the order imposing the fine or as otherwise specified in the Order;

(d) The City Clerk may temporarily suspend a Medical Marihuana Facility License without a Hearing if the City Clerk finds that public safety or welfare requires emergency action. The City Clerk shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a Hearing;

(e) If the City Clerk temporarily suspends a license without a Hearing, the licensee is entitled to a Hearing within thirty (30) days after the Suspension Notice has been issued. The Hearing shall be limited to the issues cited in the Suspension Notice; and

(f) If the City Clerk does not hold a Hearing within thirty (30) days after the date of suspension was issued, then the suspended license shall be automatically reinstated, and the suspension vacated.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Pontiac this _____ day of _____, 2018.

Deirdre Waterman, Mayor

Sheila Grandison, City Clerk

I hereby certify that the foregoing is a true copy of the Ordinance as passed by the City Council to be placed upon the August 7, 2018 primary election ballot of the City of Pontiac at a special Council Meeting held in the City Council Room in said City on the _____ day of _____, 2018.

Sheila Grandison, City Clerk

I further certify that the foregoing was published in _____, a newspaper of general circulation in the City of Pontiac, once in each of two (2) successive weeks immediately preceding the election on the _____ day of _____, 2018

Sheila Grandison, City Clerk

**CITY OF PONTIAC
ORDINANCE NO. _____**

AN ORDINANCE AMENDING CHAPTER __ ENTITLED PONTIAC CODE OF ORDINANCES FOR THE CITY OF PONTIAC TO ADD ARTICLE __ TO CHAPTER __ TO OPT OUT OF ISSUANCE OF LICENSES RELATED TO MEDICAL MARIHUANA FACILITIES LICENSING ACT.

THE CITY OF PONTIAC ORDAINS:

Section 1. Chapter __ of the Pontiac Code of Ordinances is hereby Amended to add Article __ to read as follows:

Article IV. Medical Marihuana Establishment Licenses.

Sec. 30-70. Definitions, Interpretation and Conflicts.

Sec. 30-71. City of Pontiac is an Opt-Out Community under the MMFLA.

30-70. – Definitions, Interpretation and Conflicts.

For the purposes of this chapter:

(a) The Medical Marihuana Facility means any facilities identified in the Medical Marihuana Facilities Licensing Act (Act 281 of 2016) (“MMFLA”).

30-71. – City of Pontiac is an Opt-Out Community under the MMFLA.

(a) No person shall operate a Medical Marihuana Provisioning Center, Medical Marihuana Grower Facility, Processor facility, Safety Compliance Facility, or Secure Transporter; as set forth in the MMFLA; in the City of Pontiac.

(b) The City Clerk shall not issue a license for a Medical Marihuana Provisioning Center, Medical Marihuana Grower Facility, Processor facility, Safety Compliance Facility, or Secure Transporter as set forth in the MMFLA.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Pontiac this _____ day of _____, 2018.

Deirdre Waterman, Mayor

Sheila Grandison, City Clerk

I hereby certify that the foregoing is a true copy of the Ordinance as passed by the City Council to be placed upon the August 7, 2018 primary election ballot of the City of Pontiac at a special Council Meeting held in the City Council Room in said City on the _____ day of _____, 2018.

Sheila Grandison, City Clerk

I further certify that the foregoing was published in _____, a newspaper of general circulation in the City of Pontiac, once in each of two (2) successive weeks immediately preceding the election on the _____ day of _____, 2018

Sheila Grandison, City Clerk