

INITIATION OF LEGISLATION

We, the undersigned qualified and registered electors, residents in the township of Zilwaukee, state of Michigan, respectively petition for initiation of legislation to provide for a single marihuana establishment in the Township of Zilwaukee and to provide for appropriate municipal regulation incidental to the operation of such establishment. This petition is to be submitted to a vote of the electors of the Township of Zilwaukee for the November 8, 2022 General Election.

INITIATED ORDINANCE NUMBER 2022-0001 REPEAL OF MARIHUANA PROHIBITION

THE TOWNSHIP OF ZILWAUKEE ORDAINS:

SECTION 1. PURPOSE

The purpose of this Ordinance is to authorize and regulate within the Township the business operations of persons licensed by the State to operate Marihuana Establishments consistent with the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 et seq., and to do all of the following: (1) provide adults twenty-one (21) years of age and older safe access to marihuana; (2) ensure the safety of adults twenty-one (21) years of age and older, and the general public; (3) provide for an application fee to apply for a Provisional License for a Marihuana Establishment and a fee for any local approvals granted to be renewed; (4) provide for a process to select Local Applicants to receive local approvals for Marihuana Establishments, and to provide for a process for those local approvals to be renewed, or potentially denied or revoked; (5) comply with the Michigan Regulation and Taxation of Marihuana Act in order to protect and enhance the public health, safety, and welfare; (6) address and repair the harm caused to communities disproportionately impacted by the prohibition of marihuana through the promotion of employment and business ownership opportunities within these communities; (7) to bring marihuana businesses into the Township that demonstrate commitment to advance the broader interest and goals of the community through high-impact local investment, and that provide employment opportunities to local residents and contractors; and (8) to provide for, if enacted by the Township Board of Trustees, a Community Benefits Program in the Township to benefit Individuals Disproportionately Impacted by Marihuana Prohibition. Nothing contained within this Ordinance, or within any local approval issued by the Township, shall be construed to relieve a person of the duties and obligations imposed under state laws and regulations. Notwithstanding the foregoing, it is not the intent of this Ordinance to diminish, abrogate or restrict protections for the medical use of marihuana provided in the Michigan Medical Marihuana Act. Nothing in this Ordinance is intended to grant individuals immunity from the enforcement of federal laws prohibiting marihuana activity. The provisions of this Ordinance are regulatory in nature and not intended to be interpreted as zoning laws. The provisions of this Ordinance are severable and self-executing. This Ordinance is hereby declared necessary to preserve the public peace, health, safety and welfare of the People of the Township.

SECTION 2. DEFINITIONS

- (a) All definitions provided in the MRTMA are incorporated by reference into this Ordinance, and the term “marijuana” shall be synonymous with the term “marihuana.” As used in this Ordinance, the following terms shall be defined as follows:
- (b) “Agency” is defined as the Marijuana Regulatory Agency or any successor agency.
- (c) “Application Date” is defined as the date on which the Local Applicant submits its application to the Township for a single License Type at a Business Facility Address or for a License renewal.
- (d) “Business Facility Address” is defined as the singular United States postal address, for a building structure located atop a Land Parcel, where a Marihuana Establishment is proposed to be located for a License Type listed in an application to the Township. The existing square footage of the enclosed building structure at the Business Facility Address at the time of the application shall solely be used for measuring the square footage of the Business Facility Address.
- (e) “Business Facility Adjacent Address” is defined as the singular United States postal address of a building structure which is physically adjoining or directly physically touching the building structure of a Business Facility Address. Physically adjoining shall, for the purposes of this definition, mean the physical connection through walls, adjacent walls, or a common building structure, though this definition shall not include any common road, foundation, or surface that the building structure sits on.
- (f) “Community Benefits Program” shall refer to a program that the Township may establish for the purposes of assisting Individuals Disproportionately Impacted by Marihuana Prohibition in the creation of Worker-Owned Cooperatives within the Township, gaining employment in the marihuana industry within the Township and starting marihuana businesses within the Township. If created, this program shall be subject to the requirements of Section 13 of this Ordinance.
- (g) “Township” shall refer to the Township of Zilwaukee.
- (h) “Township Full License Authorization” shall be defined as the full local approval that the Township of Zilwaukee automatically grants a Local Applicant to operate a Marihuana Establishment at a Business Facility Address when the Local Applicant has received a state operating license pursuant to the MRTMA. It shall not be considered a municipal license.
- (i) “Clerk” is defined as the Township Clerk of the Township of Zilwaukee.
- (j) “Community Benefits Agreement” is defined as a legally binding commitment from a Local Applicant, which shall also be binding on the Local Applicant’s successors or assigns, that states that the Local Applicant will, contingent upon approval of a Provisional License and contingent upon the Local Applicant holding a Township Full License Authorization for a period of at least one year, and contingent upon the Township creating a Community Benefits Program, make an annual payment of ten thousand dollars (\$10,000) to the Community Benefits Program for as long as the Local Applicant, or its successors or assigns, holds ownership of the Township Full License Authorization.
- (k) “Board of Trustees” is defined as the Township Board of Trustees of the Township of Zilwaukee.
- (l) “Designated Consumption Establishment” is defined as a business licensed by the Agency to permit adults twenty-one (21) years of age and older to consume marihuana products at a Business Facility Address.
- (m) “Fully Qualified Provisional License Application” is defined as a Provisional License application for which all of the following is true and has been documented in the Local Applicant’s application to the Township: (1) The Local Applicant currently holds a state operating license pursuant to the MMFLA or the MRTMA, though Microbusiness License Type Local Applicants and Class A Marihuana Grower License Type Local Applicants shall be exempt from this requirement; (2) The stakeholders of the Local Applicant possess at least 10 total years of combined business experience, though Microbusiness License Type Local Applicants and Class A Marihuana Grower License Type Local Applicants shall be exempt from this requirement; (3) The Local Applicant has an Occupancy Affidavit with a Percentage Occupancy of zero (0) percent; (4) The Local Applicant has answered yes and provided supporting documentation for every question in the Public Health Plan Checklist category of their application; (5) The Local Applicant has committed in their application to hire at least ten (10) percent of their employees from local residents of the Township; (6) The Local Applicant has committed in their application to hiring at least twenty-five (25) percent of their employees consisting of Individuals Disproportionately Impacted by Marihuana Prohibition; (7) The Local Applicant has signed a Community Benefits Agreement as defined in this Ordinance; (8) The Local Applicant has committed to hiring local contractors for work and improvements to its Business Facility Address; (9) The Local Applicant has completed over thirteen (13) of the items listed in Section 5 of this Ordinance that may be included in a Provisional License application.
- (n) “Individual Disproportionately Impacted by Marihuana Prohibition” is defined as an individual who meets at least one of the three criteria listed in the Marijuana Regulatory Agency’s Social Equity Program, which includes: Individuals who have resided in a disproportionately impacted community, as defined by the Agency, for at least five (5) calendar years prior to the Application Date; individuals with a prior marihuana related conviction; and individuals with at least two (2) calendar years of caregiver experience under the State of Michigan’s medical marihuana program.
- (o) “Land Parcel” or “Parcel” shall be defined as a land parcel, with an associated tax identification number, allocated by the appropriate governmental body, whose official records are held by the Clerk, the Register of Deeds, or other appropriate governmental body, for the purposes of tracking the use of land within the Township.
- (p) “Local Applicant” is defined as an individual, entity, person, or persons who submits an application for a License Type to the Township.

(q) "License Type" is defined as a single category of a license that a Local Applicant can apply for, such as a Marihuana Microbusiness license, a Marihuana Retailer license, a cultivation or grower license, or any other license that a Local Applicant can apply for through the processes set forth in this Ordinance.

(r) "MMFLA" is defined as the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101 et seq.

(s) "MMMA" is defined as the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 et seq.

(t) "MRTMA" is defined as the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 et seq.

(u) "Percentage Occupancy" shall be defined as the occupancy percentage of a Business Facility Address for the calendar year immediately prior to the Application Date or, if applicable, for the calendar year ending no earlier than three (3) months prior to the Application Date if the requirements of Section 2(u)(4) are met, and shall consist of the occupancy percentage of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the Application Date. The Percentage Occupancy shall be calculated using the average square footage of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits that are occupied during the calendar year immediately prior to the Application Date, utilizing a method determined by the Clerk. The method of determining Percentage Occupancy shall be subject to the following requirements of this Ordinance:

(1) Construction activity, renovation activity, or storage activity in the buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits shall not be considered occupancy or counted as part of the Percentage Occupancy of a Business Facility Address. However, storage units which are part of commercial storage businesses where rent is paid for the use of a storage space shall be considered occupancy and shall count towards Percentage Occupancy, and storage activity relating to inventory and/or equipment incidental to the operation of a business or other organization that is otherwise occupying the Business Facility Address shall be considered occupancy and shall count toward Percentage Occupancy.

(2) The determination of Percentage Occupancy shall require an Occupancy Affidavit and, if possible, provide supporting documentation attesting to the occupancy of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the Application Date, or, if applicable, for the calendar year ending no earlier than three (3) months prior to the Application Date if the requirements of Section 2(u)(4) are met.

(3) For the purposes of issuing a Provisional License, the Township shall verify the Percentage Occupancy of the Business Facility Address through an Occupancy Affidavit and, if possible, other supporting documentation which may include, but not be limited to, lease documents, purchase agreements, certificates of occupancy, utility bills, and other documentation that can show the occupancy level over the time period.

(4) Notwithstanding the requirements of this section, if a Local Applicant submits an Occupancy Affidavit that is dated no earlier than three (3) months prior to the Application Date attesting to the Percentage Occupancy of the Business Facility Address, the Local Applicant will be deemed to meet the requirements of the "calendar year immediately prior to the Application Date" Percentage Occupancy definition.

(v) "Occupancy Affidavit" is defined as a sworn affidavit from the owner of a Land Parcel or the authorized representative designated by the owner of the Land Parcel for this purpose, attesting to the Percentage Occupancy of any buildings, structures, or units contained within the Land Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the date of execution of such Occupancy Affidavit, subject to the requirements of Section 2(u) of this Ordinance.

(w) "Provisional License" is defined as a provisional local authorization issued by the Township for a Local Applicant to, contingent upon approval of a state operating license from the Agency, operate a Marihuana Establishment at a Business Facility Address, provided that the Provisional License shall become a Township Full License Authorization upon the Local Applicant receiving a state operating license pursuant to the MRTMA. A Local Applicant shall be prohibited from operating a Marihuana Establishment without a state license issued by the Agency.

(x) "Stakeholder" is defined as the following for each type of Local Applicant:

- (1) For an individual or sole proprietorship: the proprietor.
- (2) For a partnership and limited liability partnership: all partners.
- (3) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of ten percent (10%) or less and who does not exercise control over or participate in the management of the partnership.
- (4) For a limited liability company: all members and managers.
- (5) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and all stockholders, not including those holding a direct or indirect ownership interest of ten percent (10%) or less.
- (6) For a publicly held corporation: all corporate officers or persons with equivalent titles, all directors and all stockholders, not including those holding a direct or indirect ownership interest of ten percent (10%) or less.
- (7) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the Articles of Incorporation or their bylaws.

(y) "Stand Alone Business Facility Address" is defined as a Business Facility Address that does not have a Business Facility Adjacent Address and where the proposed Business Facility Address is physically separated from areas where smoking or the use of cannabis is prohibited, not including the Business Facility Address in question, and where smoke or the smell of cannabis does not infiltrate into nonsmoking areas or buildings that are not part of the Business Facility Address. This shall be demonstrated by a site plan or preliminary sketch submitted by the Local Applicant in Section 5(13).

(z) "Vacant Land Parcel" is defined as a Land Parcel that does not contain a structure that had previously received a certificate of occupancy from the Township or that could receive a certificate of occupancy from the Township.

(aa) "Worker-Owned Cooperative" is defined as a business that is organized or registered under Subchapter T or another applicable section of the Internal Revenue Code and for which all of the following is true: (1) There is democratic control of the business by the workers or employees of the business themselves; and (2) The workers or employees of the business comprise over fifty (50) percent of the ownership of the business.

SECTION 3. ACTS PROHIBITED

(a) No person shall operate a Marihuana Establishment in the Township without first obtaining a relevant Township Full License Authorization pursuant to the MRTMA and in accordance with the provisions of this Ordinance. A separate Township Full License Authorization is required for each Marihuana Establishment.

(b) A licensed Marihuana Establishment in the Township shall not display any of the following on the exterior of a building, a public billboard, or any sign for the Marihuana Establishment:

- (1) A green cross;
- (2) Anything that resembles any part of a marihuana plant; or
- (3) The words or phrases "marihuana," "marijuana," "cannabis," "dank," "pot," "kush," "weed," "THC," or "Mary Jane."

SECTION 4. AUTHORIZATION OF MARIHUANA ESTABLISHMENTS

(a) Except as provided herein and pursuant to the MRTMA, the Township shall authorize the following number of state licensed Marihuana Establishments to operate within its boundaries:

- (1) Marihuana Safety Compliance Facility - Zero (0) licenses
- (2) Marihuana Secure Transporter - Zero (0) licenses
- (3) Marihuana Class A Microbusiness - Zero (0) licenses
- (4) Marihuana Retailer - One (1) license issued at a minimum, maximum of one (1) license allowed
- (5) Marihuana Processor - Zero (0) licenses

- (6) Class A Marihuana Grower - Zero (0) licenses
- (7) Class B Marihuana Grower - Zero (0) licenses
- (8) Class C Marihuana Grower - Zero (0) licenses
- (9) Designated Consumption Establishment - Zero (0) licenses

(b) The Township shall not enact any Unreasonably Impracticable restrictions on the commercial sale and/or serving of food and beverages at a Designated Consumption Establishment.

(c) There shall be no more than a total of one (1) unique Business Facility Addresses at which a Marihuana Retailer or a Designated Consumption Establishment may operate, provided that more than one of these License Types may be located at the same Business Facility Address, and that the co-location of a Marihuana Retailer and a Designated Consumption Establishment at a Business Facility Address shall not count towards more than one (1) of the total limit of one (1) unique Business Facility Addresses allowed to operate within the Township for these License Types.

(d) Nothing in this Ordinance shall be read to prohibit any combination of a Marihuana Grower, a Marihuana Processor, a Designated Consumption Establishment, or a Marihuana Retailer from operating at a single location or from operating at the same location as a Marihuana Facility. Nothing in this Ordinance shall be read to prohibit a Designated Consumption Establishment from operating at the same Business Facility Address as a Marihuana Retailer. Notwithstanding anything else in this Ordinance, a Marihuana Retailer may not be located at the same Business Facility Address as another Marihuana Retailer.

SECTION 5. PROVISIONAL LICENSE APPLICATIONS

The Clerk shall develop an application process to apply for Provisional Licenses and the Clerk shall establish and make available Provisional License application forms (including a Provisional License Transfer form), which shall require a sworn oath from an authorized representative of the Local Applicant that all information contained within the application is true to the best of their knowledge, that they have the exclusive authority to apply for the business facility address and, in addition to this sworn oath, shall require no more than the following information:

- (1) The full name, date of birth, physical address, email address, and telephone number of the Local Applicant in the case of an individual; or, in the case of an entity, all Stakeholders thereof.
- (2) If the Local Applicant is an entity, the entity's articles of incorporation or organizational documents.
- (3) If the Local Applicant is an entity, the entity's employer identification number.
- (4) An affidavit that neither the Local Applicant nor any Stakeholder of the Local Applicant is in default to the Township.
- (5) The Business Facility Address for which the Local Applicant is applying for a License Type.
- (6) A "Commitment to Community" statement that demonstrates the Local Applicant's intent to advance the broader interest and goals of the community through local investment. This Commitment to Community statement shall outline the Local Applicant's intentions regarding the hiring of local residents and the employment of local contractors and local workers for improvements to its Business Facility Address, and its intentions for re-developing vacant, blighted, underutilized, and abandoned property through investments in its Business Facility Address. This section may include an Occupancy Affidavit.
- (7) A location area map that identifies the relative location(s) of, and distance(s) from, the school(s) nearest to the Business Facility Address, including compliance with the MRTMA's requirement that the location of the Marihuana Establishment be at least one-thousand (1,000) feet away from a school unless the Township adopts an ordinance lowering this distance requirement.
- (8) The License Type for which the Local Applicant is applying.
- (9) Documentation of ownership, lease agreement, or other legal arrangement permitting the Local Applicant to apply for a license or any and all municipal permits or approvals needed for the Business Facility Address pursuant to the terms of this Ordinance.
- (10) If applicable, a Community Benefits Agreement as defined in Section 2(j) of this Ordinance.
- (11) A social equity plan that details how the Local Applicant plans on furthering the social equity objectives of this Ordinance in terms of promoting business and employment opportunities for communities that have been disproportionately impacted by marihuana prohibition, and its commitment to hiring Individuals Disproportionately Impacted by Marihuana Prohibition. This social equity plan and the commitments that the Local Applicant makes shall be used for the purposes of scoring a Provisional License Application in Section 7 of this Ordinance and for any renewals or transfers as permitted by this Ordinance.
- (12) Documentation of the Local Applicant's Stakeholders of being Individuals Disproportionately Impacted by Marihuana Prohibition, if applicable, along with their respective ownership percentages. To verify proof of residency in a disproportionately impacted community as defined by the Agency, W-2 forms, mortgages, deeds, property tax documents, lease or rental agreements, insurance documents, voter registration, or other valid documentation may be used. To verify a marihuana-related conviction, a copy of judgment of sentence or other official documentation is required. To verify two (2) calendar years of caregiver experience, the Local Applicant must give authorization for the Agency to release relevant information under the MMMA or provide the appropriate supporting documentation.
- (13) A site plan or preliminary sketch of the proposed facility, detailing the location of basic security features, entrances and exits, dimensions, and proposed layout of the Business Facility Address. This may include the square footage of the Business Facility Address and the location of any shared walls, bathrooms, doors, air ventilation systems, or facilities with non-marihuana businesses and the location of any Business Facility Adjacent Addresses. The applicant may note if they are applying to be a vertically integrated facility by noting other License Types that they are applying for at the Business Facility Address.
- (14) If applicable, documentation that the Local Applicant has received a state operating license pursuant to the MMFLA or MRTMA or that the Local Applicant has received MMFLA or MRTMA pre-qualification approval from the Agency.
- (15) Documentation of the business operating, managing, or ownership experience of each of the Stakeholders of the Local Applicant.
- (16) The completion of a "Security Plan Checklist" that contains answers to the following questions along with supporting documentation: (i) Does the Local Applicant have a security plan to prevent minors from obtaining access to marihuana at the Business Facility Address? If so, provide supporting documentation; (ii) Does the Local Applicant have a security plan designed to deter potential robbery and theft from the Business Facility Address? If so, provide supporting documentation; (iii) Does the Business Facility Address of the Local Applicant meet the definition of a Stand Alone Business Facility Address and if so, does its security plan include the installation of physical security barriers to create a three hundred and sixty (360) degree perimeter surrounding its Stand Alone Business Facility Address for the purpose of deterring theft and crime? If so, provide supporting documentation.
- (17) The completion of a "Public Health Plan Checklist" that contains answers to the following questions along with supporting documentation: (i) Will the Local Applicant require that the employees at its Business Facility Address wear Personal Protective Equipment, including gloves, when handling marihuana and marihuana products? If so, provide supporting documentation; (ii) Does the Local Applicant have a public health plan to educate its customers about the potentially harmful side-effects of using marihuana in combination with other substances and to warn its customers about potential negative health effects of individuals with specific health conditions from using marihuana? If so, provide supporting documentation; (iii) Does the Business Facility Address of the Local Applicant contain an existing ventilation system that is not also utilized by a non-marihuana establishment or other non-marihuana business and where the ventilation system directs air from the Marihuana Establishment to the outside of the building through a filtration system sufficient to remove visible smoke if applicable, consistent with all applicable building codes and ordinances and adequate to eliminate odor at the boundary line of the Business Facility Address? If so, provide supporting documentation; (iv) Does the Business Facility Address of the Local Applicant qualify as a Stand Alone Business Facility Address? If so, provide supporting documentation.

SECTION 6. APPLICATION FEE

(a) The Township shall establish a nonrefundable Provisional License application fee to be paid upon filing any application for a Marihuana Establishment by a Local Applicant. The amount of the initial Provisional License application fee may be set by Board of Trustees resolution, but shall not exceed one hundred dollars (\$100), with a final application fee that does not exceed four thousand nine hundred dollars (\$4,900) to be paid to the Township upon approval of a state operating license issue by the Agency for the License Type at the Business Facility Address. If the Township fails to establish such a fee by the time that the initial application window opens, the fee amount shall default to the maximum amount of one hundred dollars (\$100) for the initial Provisional License application fee and four thousand nine hundred dollars (\$4,900) for the final fee paid, which shall be paid upon issuance of a state operating license to the Local Applicant.

SECTION 7. APPLICATION REVIEW

(a) The Clerk shall establish a process to receive, process, and review applications in order to determine that all applicable required content listed in Section 5 of this Ordinance has been included and that the relevant application fee has been paid, but the process may not conflict with the provisions of this Ordinance. The Clerk may only refuse to process an application for failure to pay the initial application fee.

(b) Except as provided by law, all materials submitted to the Township as part of an application shall be exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq.

(c) The Clerk may set the opening of the initial application window for Marihuana Establishments no later than ten (10) days after the effective date of this Ordinance. But if the Clerk fails to set the initial application window within ten (10) days after the effective date of this Ordinance, the initial application window for Marihuana Establishments shall automatically open on the eleventh (11th) day after the effective date of this Ordinance. If the Clerk fails to make an application form available for Marihuana Establishments, Local Applicants may prepare and file their own application which must include information for at least twelve (12) of the items listed in Section 5 of this Ordinance and be titled "Marihuana Establishment Application" and be filed with the Clerk and must include the sworn oath as required in Section 5 of this Ordinance. The initial application window for Marihuana Establishments shall close ten (10) days after it opens. One (1) calendar year after Provisional Licenses for Marihuana Establishments have been awarded to Local Applicants who apply within the initial application window for Marihuana Establishments, the Clerk may set a subsequent application window.

(d) 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 (100) points with the lowest possible total score being zero (0) points and the highest possible total score being one hundred (100) points. In the event of an evaluation scoring tie, which causes there to be two (2) or more Local Applicants who achieve equal scores, the scoring-tied Local Applicants will be entered into a random draw to determine their relative rankings under this scoring procedure.

(e) After the closing of the initial application window, the Clerk shall score and rank applications for Marihuana Establishments by using the following scoring criteria which can be objectively verified by category for applications submitted during the initial application window for Marihuana Establishments.

(1) **LOCAL APPLICANT VETTING.** This category shall refer to the degree to which the Local Applicant has been found qualified for licensure by the Agency. A maximum of fifty (50) points shall be awarded for this category. If the Local Applicant possesses a State operating license pursuant to the MMFLA or the MRTMA, fifty (50) points shall be awarded for this category; or, if the Local Applicant possesses a state prequalification approval from the Agency pursuant to the MMFLA or the MRTMA, forty (40) points shall be awarded for this category. A Local Applicant can only earn points for either a state operating license or a state pre-qualification letter in this category.

(2) **COMPLETENESS:** This category shall refer to the information which may be included in an application under the provisions of Section 5 of this Ordinance. The maximum number of scoring points in this category shall be ten (10) points. Points in this category shall only be determined based on the completeness of the application. Completeness shall be defined as the number of items in Section 5 of this Ordinance for which information has been submitted. If the application contains information for less than twelve (12) of the items listed in Section 5 of this Ordinance, zero (0) points shall be awarded for this category. If the application contains information for twelve (12) to thirteen (13) of the items listed in Section 5 of this Ordinance, seven (7) points shall be awarded for this category. If the application contains information for over thirteen (13) of the items listed in Section 5 of this Ordinance, ten (10) points shall be awarded for this category. Completeness in this category shall only refer to whether or not information for a Section 5 item has been provided, and is not an assessment of the subjective quality or sufficiency of said information.

(3) **BUSINESS EXPERIENCE.** This category shall refer to the years of business operating experience of the Stakeholders of the Local Applicant in operating either marihuana or non-marihuana businesses. A maximum of ten (10) points shall be awarded for this category, and one (1) point shall be awarded for each total year of combined business operating experience by the Stakeholders of the Local Applicant as documented in Section 5(15) of this Ordinance.

(4) **SECURITY AND PUBLIC HEALTH:** This category allocates points based on whether the Business Facility Address of a Local Applicant has features that will increase the security of the Marihuana Establishment and reduce any public health risks that may result from the Marihuana Establishment. A maximum of seven (7) points shall be awarded for this category. If the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two (2) of the Security Plan Checklist questions listed in Section 5(16) of this Ordinance, one (1) point shall be awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Security Plan Checklist questions listed in Section 5(16) of this Ordinance, three (3) points shall be awarded for this category. If the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and provided the appropriate supporting documentation to at least two (2) of the Public Health Plan Checklist questions listed in Section 5(17) of this Ordinance, two (2) additional points shall be awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Public Health Plan Checklist questions listed in Section 5(17) of this Ordinance, four (4) additional points shall be awarded for this category.

(5) **STRUCTURAL SUITABILITY:** This category allocates points based on whether the Business Facility Address is likely to be in compliance with the MRTMA, the time it will take for the Business Facility Address to come into compliance with the MRTMA, and the safety risk posed by building structures that are not well suited to operate as Marihuana Establishments. A maximum of ten (10) points shall be awarded for this category. Application information in Section 5(13) shall be used for the purposes of allocating points in this category. If the application is for a Marihuana Retailer License Type and the Business Facility Address contains a minimum of two thousand (2,000) square feet, ten (10) points shall be awarded for this category. If the application is for a Marihuana Retailer License Type and the application contains a site plan for the Business Facility Address to be at least 2000 square feet, five (5) points shall be awarded for this category. If the application is for a Marihuana Grower License Type and the Business Facility Address contains a minimum of five thousand (5,000) square feet, ten (10) points shall be awarded for this category.

(6) **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance the broader interest and goals of the community through investment in the people of the community and in the community's tax base. This is demonstrated through the following criteria: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to its Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, or abandoned property in the community. The maximum number of scoring points in this category shall be seven (7) points. Points in this category shall be awarded as follows: If the Local Applicant, as part of the Commitment to Community category of its application, commits to hiring a minimum of ten (10) percent of its employees from local residents of the Township, one (1) point shall be awarded for this category. If the Local Applicant, as part of the Commitment to Community category of its application commits to hiring local contractors for work and improvements to its Business Facility Address, one (1) additional point shall be awarded for this category. Points for long-term community investment and re-development shall be awarded based on the Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero percent, the Local Applicant shall be awarded five (5) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded three (3) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded two (2) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially viable building structures or is a Vacant Land Parcel, the Local Applicant shall be awarded zero (0) additional points for this category.

(7) **SOCIAL EQUITY:** This category allocates points based on whether the Local Applicant has made a commitment to hire Individuals Disproportionately Impacted by Marihuana Prohibition. A maximum of six (6) points shall be awarded for this category. If the Local Applicant commits to hire a minimum of twenty-five (25) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, three (3) points shall be awarded for this category; or, if the Local Applicant commits to hiring a minimum of ten (10) percent of its workforce consisting of Individuals Disproportionately

Impacted by Marihuana Prohibition, one (1) point shall be awarded for this category. If the Local Applicant includes a Community Benefits Agreement in their application that meets the requirements of Section 5(10) of this Ordinance, three (3) additional points shall be awarded for this category.

(f) At the closing of the first ten (10) day initial application window, the Clerk shall process and score applications for Marihuana Establishment License Types, starting with Marihuana Designated Consumption Establishments, which shall be awarded Provisional Licenses for Marihuana Establishments first, then Marihuana Retailers, which shall be awarded Provisional Licenses for Marihuana Establishments second, then Marihuana Microbusinesses, which shall be awarded Provisional Licenses for Marihuana Establishments third, and the remainder of the available Marihuana Establishment License Types shall be awarded in order of the highest scoring Local Applicant.

(g) If, after Provisional Licenses for Designated Consumption Establishments have been awarded, pursuant to the limitations of Section 4(c) of this Ordinance, there are no Business Facility Address locations available for a Marihuana Retailer application where the Business Facility Address does not already have and will not receive a Provisional License or a Township Full License Authorization for a Designated Consumption Establishment at the Business Facility Address, the Clerk shall award Provisional Licenses for Marihuana Retailers only for those Business Facility Addresses that already have received or will receive Provisional Licenses or Township Full License Authorizations for Designated Consumption Establishments in order of the highest scoring Local Applicant.

(h) If the Clerk fails to award one (1) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window, all Fully Qualified Provisional License Applications shall be deemed to have local approval under this Ordinance to operate a Marihuana Establishment contingent upon approval of a State Marihuana Establishment license by the Agency. Notwithstanding anything else contained in this Ordinance, under this circumstance, the Township shall not nor shall any of its representatives notify the Agency that a proposed Marihuana Establishment is not or was not in compliance with an ordinance consistent with the MRTMA and in effect at the time of the Local Applicant's application to the Agency, and any proposed Marihuana Establishment whose application is a Fully Qualified Provisional License Application shall be authorized to operate in the Township in accordance with state law without any Township Marihuana Establishment local approval, permit, license, Provisional License, or Township Full License Authorization as long as they operate pursuant to the rules and regulations promulgated by the Agency. If the requirements for one or more Fully Qualified Provisional License Applications to automatically receive local approval to operate pursuant to a state operating license have been met, this number of Fully Qualified Provisional License Applications shall control the number of Marihuana Establishments allowed if the number is greater than the number set in Section 4 of this Ordinance.

(i) If a Local Applicant is granted a Provisional License for a Fully Qualified Provisional License Application through a writ of mandamus to the Township or by compelling the Township to act through a court order because the Township has failed to award one (1) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window, such a Local Applicant shall not be required to pay more than a maximum annual amount of five-hundred dollars (\$500) for the next ten (10) calendar years for its Township Full License Authorization annual renewal fee.

(j) A Provisional License may be used to satisfy the licensing requirements for a Local Applicant going through the Agency's licensing process for a Marihuana Establishment. A Provisional License shall automatically become a Township Full License Authorization when the Agency issues a license to the Marihuana Establishment at the Business Facility Address.

(k) The Clerk shall verify that the Occupancy Affidavit submitted by a Local Applicant is accurate and truthful, along with information regarding the structural suitability of a Business Facility Address that is submitted by a Local Applicant.

SECTION 8. LICENSE REQUIREMENTS

(a) A Township Full License Authorization under this Ordinance shall be subject to the following conditions:

- (1) Compliance with the requirements of this Ordinance;
- (2) Compliance with the provisions of the MRTMA and any rules promulgated thereunder; and
- (3) Marihuana Establishments shall only operate between the hours of 9:00 AM and 9:00 PM, seven (7) days per week. Notwithstanding this requirement, processor, grower, or cultivation licensees may operate twenty-four (24) hours per day, seven (7) days per week.

SECTION 9. LICENSES GENERALLY

(a) A Township Full License Authorization that is issued under this Ordinance shall be posted at all times inside the Marihuana Establishment in a conspicuous location near the entrance.

(b) Except as provided in this Ordinance, the term of a Township Full License Authorization shall be for one (1) calendar year subject to renewal by the Clerk upon continued compliance with this Ordinance.

(c) Licensees or Provisional License holders may transfer a Township Full License Authorization or Provisional License issued under this Ordinance to a location at a different Business Facility Address upon receiving written approval from the Clerk, which shall not be withheld unless the new proposed Business Facility Address would be in violation of a local zoning ordinance. In order to request Township approval to transfer a Township Full License Authorization or Provisional License to a new Business Facility Address, the licensee or Provisional License holder must submit a written request to the Clerk, indicating the current location of the Marihuana Establishment and the new proposed Business Facility Address. The Clerk shall respond to a location transfer request within five (5) days of receipt of the request. Notwithstanding this section, a Microbusiness license may not be transferred to any other Business Facility Address within the Township.

(d) Licensees or Provisional License holders may transfer a Township Full License Authorization or Provisional License issued under this Ordinance to a different individual or entity, and the licensee or Provisional License holder shall notify the Clerk of the transfer. The transfer must comply with the MRTMA, and any applicable rules promulgated thereunder, and shall not require approval by the Agency. Except as provided in Section 9(e), the Township shall be prohibited from interfering with a Township Full License Authorization or Provisional License transfer, provided that the new Local Applicant or individual owner notifies the Township of the transfer by filing an application with the Clerk upon a form provided by the Township or, if such a form is unavailable, by submitting the information required in Section 5 of this Ordinance to the Clerk. In either case, the Clerk must respond to such a transfer request within five (5) days of receipt of the request. The Clerk shall grant the new licensee or Provisional License holder or Township Full License Authorization holder/owner the same rights as the previous licensee or Township Full License Authorization owner or Provisional License owner. The Local Applicant that receives the transfer of the Provisional License or Township Full License Authorization or license shall remain legally bound by any commitments made in the original application to the Township that governed the original issuance of the Provisional License or Township Full License Authorization or license it is receiving by transfer, including commitments made in the Commitment to Community and social equity categories of the original application.

(e) Notwithstanding the requirements of Section 9(a), (b), (c), or (d), neither a Marihuana Microbusiness Provisional License nor a Marihuana Microbusiness Township Full License Authorization may be transferred to anyone with an ownership percentage by Individuals Disproportionately Impacted by Marihuana Prohibition that is less than the ownership percentage of the Local Applicant who was originally awarded the Provisional License or Township Full License Authorization to be transferred. Furthermore, notwithstanding the requirements of Section 9(a), (b), (c), or (d), no Provisional License or Township Full License Authorization may be transferred to a Local Applicant that does not have a "Commitment to Community" application category score equal or greater to the Local Applicant that is transferring the Provisional License or license or Township Full License Authorization, and no Provisional License or Township Full License Authorization or license may be transferred to a Local Applicant that does not have a Social Equity application category score of equal or greater than the license holder that is transferring the Provisional License or license or Township Full License Authorization.

(f) Notwithstanding the requirements of this Ordinance, the provisions of this Ordinance that are dependent upon Percentage Occupancy shall not apply to any renewal applications or to any transfer applications for a license or Provisional License or Township Full License Authorization.

(g) A Provisional License and a Township Full Authorization License shall be considered a vested property right by the Township and treated as such.

SECTION 10. RENEWALS

(a) Provisional Licenses shall be valid for one (1) calendar year from the date they are issued.

(b) Application for a Township Full License Authorization renewal shall be made in writing to the Clerk at least thirty (30) days prior to the expiration of an existing license. Licenses shall be renewed annually. A Provisional License shall automatically be renewed for one (1) calendar year by a Local Applicant upon paying a five thousand dollar (\$5,000) annual renewal fee, provided that it adheres to the requirements in Section 12 of this Ordinance, and there shall be no limitations to the number of renewals allowed for a Provisional License for any reason whatsoever including any change in the Local Applicant's relationship to the Business Facility Address. Notwithstanding the requirements of Section 6 of this Ordinance, there is an exception to the five thousand dollar (\$5,000) annual renewal fee for any Local Applicant that is granted a Provisional License for a Fully Qualified Provisional License Application by order of a court because the Township has failed to award one (1) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window, or for a Local Applicant that is granted the ability to operate by right by a Court order because the Township fails to award one (1) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window. Such a Local Applicant shall not be required to pay an annual licensing or Township Full License Authorization renewal fee exceeding the total annual amount of five-hundred dollars (\$500) for the next ten (10) calendar years of the Township Full License Authorization annual renewal for any License Type at any approved Business Facility Address within the Township.

(c) An application for a Provisional License renewal or a Township Full License Authorization renewal required by this Ordinance shall be made under oath on forms provided by the Clerk. This renewal form shall be developed by and made available by the Clerk.

(d) An application for a Provisional License renewal or a Township Full License Authorization renewal shall be accompanied by a renewal fee, which shall be set by resolution of the Township Board of Trustees, but shall not exceed five thousand dollars (\$5,000).

(e) A renewal shall be deemed approved if the Township has not issued a formal notice of denial within thirty (30) days of the renewal date.

(f) After a Microbusiness License holder has been operating for six (6) months at a Business Facility Address, one or more different Local Applicant(s) may request and shall be approved by the Township for an additional Microbusiness Provisional License(s) at a different Business Facility Address on the same land parcel as the original Business Facility Address which has been operating for at least six (6) months. This provision shall control the number of Marihuana Microbusiness Establishments authorized in Section 4 of this Ordinance.

SECTION 11. LICENSE REVOCATION OR SUSPENSION.

Each Marihuana Establishment within the Township for which a Township Full License Authorization is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations in the Township and State. Upon any material violation of this Ordinance that a Local Applicant has failed to remedy after being provided with the sufficient time needed to make the correction, the Clerk may, after a notice and hearing, revoke or suspend such license as hereinafter provided.

SECTION 12. CRITERIA FOR NONRENEWAL, SUSPENSION, OR REVOCATION OF LICENSE

In addition to any other reasons set forth in this Ordinance, the Township may refuse to issue a license or grant renewal of the license, or the Township may suspend or revoke the license, for any of the following reasons:

(a) Failure of the licensee to demonstrate to the Township that it has complied with a Community Benefits Agreement it has committed to and the social equity plan provided in its application, including any commitments it may have made to hire Individuals Disproportionately Impacted by Marihuana Prohibition in order to receive its Provisional License or local approvals.

(b) In any case in which the Township has refused to issue a license or grant renewal of a license, or has suspended or revoked a license, the Clerk shall notify a Local Applicant or licensee or Township Full License Authorization Holder of the reasons for denial, suspension, or nonrenewal of an application for a License Type or a Township Full License Authorization renewal or for revocation of a license or any adverse decision under this Ordinance and provide the Local Applicant or licensee with the opportunity to be heard. Any Local Applicant or licensee aggrieved by the denial, suspension, or revocation of a license or other adverse decision under this Ordinance may appeal to the Clerk. Such appeal shall be taken by filing with the Clerk within fourteen (14) days after notice of the denial, suspension, revocation, or other adverse decision has been mailed to the last known address of the Local Applicant, Licensee, or Provisional License Holder on the records of the Clerk, a written statement setting forth the grounds for such appeal. Upon receipt of the written statement, the Clerk shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk. 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 Township Board of Trustees if applied for in writing to the Board of Trustees no later than fourteen (14) days after the Clerk's decision has been mailed to the Local Applicant or licensee's last known address on the records of the Clerk. The review on appeal of a denial or revocation or adverse decision shall be by the Board of Trustees pursuant to the requirements of this Ordinance. Any decision by the Board of Trustees on an appeal shall be subject to all remedies available to the Local Applicant under the laws of the State of Michigan.

SECTION 13. COMMUNITY BENEFITS PROGRAM

The Township may establish a Community Benefits Program for the purpose of economic development within the Township and to assist Individuals Disproportionately Impacted by Marihuana Prohibition in the creation of Worker-Owned Cooperatives, gaining employment in the marihuana industry within the Township, and starting licensed marihuana businesses in the Township, though not every one of these goals need be accomplished simultaneously through the actions of the Community Benefits Program. This program, if established by the Township, shall be subject to rules developed by the Township and shall be subject to the following requirements:

(a) All funds contributed pursuant to Community Benefits Agreements from Marihuana Establishments in the Township shall go to a registered 501c3 nonprofit organization designated by the Township, which shall work to effectuate the goals of the program on behalf of the Township and provide an annual report to the Township on its activities.

(b) The Township shall develop an application process for selecting a 501c3 nonprofit organization to manage the Community Benefits Program. Criteria for the 501c3 nonprofit organization shall include, but shall not be limited to, organizations that have at least five (5) years of experience working to develop Worker-Owned Cooperatives, and the nonprofit shall have at least one member of its staff or its board of directors with at least two years of experience working with the licensed cannabis industry in Michigan, which may include legal or other municipal governance experience with the licensed cannabis industry in Michigan.

(c) The nonprofit selected by the Township shall not be a religious organization, and shall not have members of its board of directors or staff who are relatives or family members of Township employees or staff or anyone receiving compensation in any capacity from the Township. The nonprofit selected by the Township shall not have any members of its board of directors hold officer positions within the Township or seats on the Township Board of Trustees. No employee, member of the Township Board of Trustees, or family member or relative of any Township employee or member of the Township Board of Trustees shall receive any direct or indirect payment from the nonprofit. Nonprofits applying to be considered to manage the Community Benefits Program shall disclose all members of their board of directors and staff and the Township shall confirm that the nonprofit is in compliance with these requirements.

(d) The nonprofit selected by the Township shall use funds contributed pursuant to Community Benefits Agreements in the Township to assist Individuals Disproportionately Impacted by Marihuana Prohibition in starting Worker-Owned Cooperatives within the Township, gaining employment in the marihuana industry within the Township, and/or to start marihuana businesses within the Township.

(e) No more than twenty (20) percent of funds the nonprofit receives from Community Benefits Agreements in the Township may be used for administrative purposes by the nonprofit. The remaining funds shall be allocated through grant-making in order to achieve the goals of the Community Benefits Program.

(f) The Township may set up additional procedures, rules, or regulations that it deems necessary to implement the Community Benefits Program.

SECTION 14. REPEALER

All ordinances or parts of ordinances that conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect, and any other provisions of ordinances or Township regulations or Township Resolutions that conflict with this Ordinance are inapplicable to conduct authorized under this Ordinance.

SECTION 15. EFFECTIVE DATE

This Ordinance shall become effective immediately upon voter enactment.

SECTION 16. SEVERABILITY AND EXECUTION

The various parts, sections and clauses of this Ordinance are hereby declared to be severable and self-executing. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid as to any person or circumstance by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby and that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this Ordinance. Ordinances may be enacted to facilitate operation of this Ordinance. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this Ordinance. In cases where there is a conflict between the MMFLA and the MRTMA, the MRTMA shall control.