

**ORDINANCE NO. 2171**  
**CITY OF MADISON HEIGHTS**  
**OAKLAND COUNTY, MICHIGAN**

**AMENDMENT TO THE CODE OF ORDINANCES**

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights to repeal in its entirety Chapter 7, Articles III, VIII and X and amend Articles I-X and XII-XV of the Code of Ordinances, City of Madison Heights to license and regulate businesses in the City of Madison Heights and protect the public health, safety and welfare.

**THE CITY OF MADISON HEIGHTS ORDAINS:**

**SECTION 1.**

That Chapter 7, Article III, VIII and X are repealed in their entirety.

**SECTION 2.**

That Chapter 7, ARTICLE I of the Code of Ordinances of the City of Madison Heights be hereby amended in entirety to read as follows:

**Article I. - GENERAL PROVISIONS**

**Section 7-1 Purpose of chapter;**

The city council finds that certain business regulations protect, advance or are otherwise in the general interest of the public health, safety and general welfare for many reasons among which are the following:

(1) Business licensing provides information about businesses in the city, such as, for example and not for limitation, names and contact information for responsible persons, information about the type of business, hours of operation, and materials used or sold in the business, that is necessary for the law enforcement and fire personnel who seek to protect the interests of the businesses, security of business property, the safety of business employees and patrons, and the safety of city personnel and the general public.

(2) Some types of businesses may have, may be perceived to have, or may historically have:

- a. A greater likelihood of association with criminal activity;
- b. Posed a greater threat to public health or safety;
- c. Been more risky for employees;
- d. Been a more frequent focus of complaints;

- e. Used or sold possibly hazardous materials;
  - f. Attracted less scrupulous patrons;
  - g. Resulted in more complaints to government officials or agencies; or
  - h. Required more scrutiny from or resources of government agencies.
- (3) Some businesses are operated in a manner that requires disproportionate city services and resources.
  - (4) Some state laws require compatible local ordinances to effectuate their provisions.
  - (5) Some state laws require local ordinances to either allow or preclude certain businesses.
  - (6) Sometimes business regulations are an effective means for preventing undesirable business practices or less desirable effects of some businesses.

#### Section. 7-1.1 - 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:

*Accessory use* is a use, under the same ownership and in the same location, and incidental and subordinate to the permitted principal use of a building.

*Alcoholic liquor* means that term as defined in the Michigan Liquor Control Act, 1998 PA 58, MCL 436.1101 et seq.

*Applicant* means an applicant for a license under this chapter.

*Building official* means the registered building official, building inspector or plan reviewer who the city has designated as its lead building official or that individual's designee.

*Business personnel* means the directors, members, partners, officers, employees, volunteers, agents and representatives of an applicant, licensee or other business, including any independent contractor performing services for an applicant, licensee or other business.

*Charitable Solicitation* includes, but is not limited to, activities considered to be fundraising in scope for charitable, religious, civic, educational or philanthropic purposes.

*Food establishment* is a building or premises, or a portion thereof, the principal use of which is devoted to the sale, dispensing, distribution, serving or storage of food, foodstuff or drink for consumption on or off the premises or in or out of the building.

*Goods* means all goods, wares, merchandise and other personal property, excepting chooses in action and money. It includes prepared and unprepared foods.

*Hearing Officer* is an individual appointed by the City Council to conduct hearings and provide due process determinations regarding matters enforced under this Chapter that are appealed by adversely effected parties.

*Highway, street, alley, sidewalk, public areas*, together or separately, shall mean any highway, street, alley or sidewalk, whether on public or private property, which is used by the public for the purpose of vehicular or pedestrian traffic, vehicular ingress and egress or the parking of motor vehicles and shall include the area between the public street and the property line and any public sidewalk.

*Licensee* means a person to whom a license has been issued under this chapter.

*Liquor control requirements* means requirements in or rules promulgated under the Michigan Liquor Control Act, 1998 PA 58, MCL 436.1101 et seq.

*Motor vehicle* means any motor vehicle as defined by the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 et seq.

*Nuisance business* means a business that meets any of the following criteria:

(1) Within any 60-consecutive-day period police have been dispatched to the business location two or more separate times due to any one or combination of:

- a. Alleged criminal acts involving minor in possession of alcoholic liquor;
- b. Sales of alcoholic liquor in violation of applicable law;
- c. Assault or attempted assault;
- d. Criminal sexual conduct or attempted criminal sexual conduct;
- e. A fight;
- f. Unlawful discharge of a firearm;
- g. Unlawful possession or sale of controlled substances;
- h. Robbery or attempted robbery;
- i. Exhibition of a dangerous weapon;
- j. Theft other than retail fraud.
- k. Alleged criminal acts involving prostitution; or
- l. Drunken disorderly conduct.

(2) Within any 60-consecutive-day period there have been two or more separate incidents or occurrences at the business location leading to the arrest and prosecution of individuals charged with committing any one or combination of the following:

- a. Alleged criminal acts involving minor in possession of alcoholic liquor;
- b. Sales of alcoholic liquor in violation of applicable law;
- c. Assault or attempted assault;

- d. Criminal sexual conduct or attempted criminal sexual conduct;
- e. A fight;
- f. Unlawful discharge of a firearm;
- g. Unlawful possession or sale of controlled substances;
- h. Robbery or attempted robbery;
- i. Exhibition of a dangerous weapon;
- j. Theft other than retail fraud;
- k. The occupancy of the business premises or any part of the business premises exceeded any legal limits;
- l. Sex trafficking or prostitution; or
- m. Misdemeanor violation of the City's building or zoning ordinances.

(3) Within any 60-consecutive-day period there have been two or more substantiated reports to city public safety personnel, the building officials or inspection staff, the community and economic development department, or city manager's office about conditions of the business property, emanating from the business property or seemingly affiliated with business personnel or patrons including:

- a. Disturbances of the peace;
- b. Harassment of passersby;
- c. Extensive littering or a failure to maintain within appropriate containers all refuse and trash or to remove refuse and trash before it becomes a nuisance due to excessive accumulation, odors, or the attraction of rodents, insects or other vermin;
- d. Nudity or semi-nudity in violation of applicable laws or ordinances;
- e. Gang activity;
- f. Illegal sale or distribution of controlled substances;
- g. Unlawful or uncontained accumulation of solid waste;
- h. Public urination or defecation;
- i. Harborage or infestation of rodents, insects or other vermin;
- j. Parking violations;
- k. Prostitution;
- l. Distribution or consumption of alcoholic liquor except as permitted by law;

- m. Emission of excessive dust or offensive odors experienced beyond the business' property lines;
- n. Unlawful obstruction of any public right-of-way;
- o. Occupancy of the business premises or any part of the business premises exceeding any legal limits or in violation of any law, rule or regulation;
- p. Accumulation of inoperable or unlicensed motor vehicles without authorization from the City.
- q. Illegal sale of tobacco or vaping materials;
- r. Violations of fire, construction or property maintenance code requirements;
- s. Violations of city noise ordinance provisions;
- t. Violations of public health codes;
- u. Outside storage in violation of applicable ordinances or laws; or
- v. Failures to maintain grass length, landscaping or hard surfaces in accordance with applicable legal requirements.

(4) Within any 60-consecutive-day period, there have been more than 15 incidents of retail fraud at the business location reported to city or county law enforcement officials.

*Operate or cause to operate* means to cause to function or to put or keep in a state of doing business.

*Operator* means any person on the premises of a business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be operating or causing to be operated a business regardless of whether that person is an owner or part owner of the business.

*Parking lot* means any outdoor space or uncovered plot, place, lot, parcel, yard or enclosure, or any portion thereof, and where more than five motor vehicles are intended to be and may be parked, stored, housed or kept.

*Patron* means a customer, client, patient, shopper, or member of the public, not an employee of the business, who is on the premises to obtain, receive or view the products, services or performances offered by the business.

*Pawnbroker* means a person who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

*Person* means an individual human being as well as associations, corporations, firms, partnerships and bodies politic. Whenever used with respect to any penalty, the word "person"

applies to the associated entity and when applied to associations shall mean the partners or members thereof and as applied to corporations, the officers thereof.

*Regulated sale* means:

- (1) Any sale, whether described by such name or by any other name, such as, but not limited to: close-out sales, liquidation sales, lost-our-lease sales, forced-to-vacate sales, or any other sale held in such a manner as to imply that, upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.
- (2) Any sale held in such a manner as to induce a belief that, upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted, and thereafter will be moved to and occupy another location.
- (3) Any sale of goods that is an insurance, bankruptcy, mortgage, insolvent, assignee's, executor's, administrator's, receiver's, trustee's, removal or sale, going out of business or sale of goods damaged by fire, smoke, water or otherwise, unless the seller first obtains a license to conduct the sale from the city clerk under article IX. This does not apply to sales by a person who regularly engaged in insurance or salvage sale of goods, or the sale of goods which have been damaged by fire, smoke, water or otherwise, or who acquired the goods for the account of others as a result of fire or other casualty.

Regulated sales do not include:

- a. a sale conducted by or at the behest of a governmental official or agency as authorized by law;
- b. a sale of goods being sold by a person who has acquired a right, title or interest in goods as an heir, devisee or legatee or pursuant to an order or process of a court of competent jurisdiction;
- c. the sale of goods from a private residence by the owner of that residence a sale of goods which goods include only household furnishings used within that residence or the personal clothing, jewelry, tools and other personal items owned by the owner of that residence.

*Second hand dealer or junk dealer* means those terms as defined in 1917 PA 350, MCL 445.401 et seq.

*Vendor/solicitor* means any person who engages in any of the following activities:

- (1) Travels from place to place for the purpose of distributing leaflets, pamphlets, fliers, or other literature advertising or seeking orders for the sale of goods or services; or displaying, selling, making sales, offering for sale, or leasing with the option to buy, takes orders for, or attempts to take orders for the retail sale of any goods, property, or services whatsoever for current or future delivery. This includes any person who travels by foot, vehicle, wagon, cart or any other means displaying, selling, offering for sale, taking orders for sale, or leasing with the option to buy, at retail, any goods, property, or service. It further includes any person who operates a pushcart, or other structure powered by bicycles or human power, with at least two operational wheels, which can be easily moved and which is used by a vendor to conduct sales.
- (2) While not traveling from place to place, engaging temporarily in a retail sale of goods, wares or merchandise in any place in the city and who for the purpose of conducting business temporarily occupies

any private lot, building, room or structure of any kind. This provision does not authorize sales on city-owned property or other public place unless authorized under a separate written agreement and does not authorize any activity that does not comply with Madison Heights Zoning Ordinance.

(3) While not having any fixed business address in the city, travels from place to place within the city, for purposes of seeking donations of money, goods, services or other things of value for any purpose.

Vendor/solicitor does not include the following:

- a. A person engaged in distributing information, seeking signatures on petitions, or engaging in other communications that are not focused on making sales of or obtaining orders for any goods or services or seeking any contributions of money, goods, services or other things of value.
- b. A person who is an authorized employee or other agent of a business licensed under this chapter that has a fixed place of operation in the city.
- c. A person who sells at an art fair, farmers' market, festival or similar special event at the invitation of the event's sponsor, if (i) the sponsor has obtained a vendor/solicitor license and (ii) the person provides the sponsor with the person's sales tax license number.
- d. A person under 18 years old selling goods or services, or soliciting orders for goods or services, on behalf of a public or private school or affiliated organization in the city, a non-profit organization in the city, or place of worship in the city.
- e. Sales of goods or other items of value and solicitations conducted electronically, by mail, or by other means without any physical presence in the city if the goods or other items of value are delivered by mail, FedEx, UPS, DHL, or other courier.

Section 7-1.2. Businesses, individuals or premises licensed by others.

- (a) This chapter concerns the licensing of a business or of certain activities, not the licensing of individuals.
- (b) This chapter does not preempt or modify requirements for licensing, registration, certification or other approval of any business, individual, activity, or premises by a federal, state, county or other officially recognized body or official. Applicants and licensees under this chapter must comply with requirements for licensing, registration, certification or other approval of any business, individual or premises by a federal, state, county or other officially recognized body or official. All premises within in the city that are used or occupied by an applicant or licensee and all activities within that premises must comply with applicable zoning ordinance, construction code, property maintenance code, water and sanitary sewer, drainage and other requirements under other city ordinances, rules, regulations and policies.
- (c) Unless the laws, rules and regulations related to licensing, registration, certification or other approval of a business, person, activity or premises by a federal, state, county or other officially recognized body or official preempts local licensure, no person will be exempt from licensing under this chapter due to the issuance of any such license or other approval by another government, agency, body, or official. If, however, laws, rules and regulations related to licensing, registration, certification or other approval of a business by a federal, state, county or other officially recognized body or official preempts local licensure as provided in this chapter, then no city license is required.

- (d) If, to legally engage in the business in Michigan, it is necessary for a person to obtain or to employ or otherwise engage persons who have obtained a license, registration, certification or other approval from a federal, state, county or other officially recognized body or official, no license shall be issued under this chapter until that person submits evidence of all such other required approvals. This provision shall not apply in any situation in which it is not legally possible to obtain a license, registration, certification or other approval from a federal, state, county or other officially recognized body or official without first having obtained a license under this chapter.

#### Section 7-2. - Enforcement; inspections

It shall be the duty of the city clerk, police chief, fire chief, treasurer and the community and economic development director or their designees to administer and enforce the respective terms and provisions of this chapter and to make, or cause to be made, such inspections of buildings or premises as may be necessary to accomplish such administration or enforcement.

Sections. 7-3—7-20; - Reserved.

#### Section 07-21. - Application.

Applications for licenses, certifications, or registrations under this chapter, together with the applicable license fee, must be filed with the clerk on a form provided by the city clerk. In addition to other information the clerk may request with the approval of the city attorney, and such information as is required under other articles in this chapter, a license application must include the following:

- (a) The applicant's name, the applicant's business address in the city, in accordance with the following:
  - (1) If the applicant is an individual the applicant's name must be as it appears on the applicant's driver's license or voter registration and the application must also include the applicant's home address if it is different from the applicant's business address and the applicant's date of birth.
  - (2) If the applicant is a person other than an individual, the applicant's name must be as it appears on any business name filing with the state of Michigan and, if the applicant has other business addresses, the application must include the address of the applicant's principal place of business.
  - (3) If the applicant is a person other than an individual and the applicant is not a business traded on a public stock exchange, the application must include the names, home addresses and dates of birth of:
    - a. Anyone serving as the applicant's directors, trustees, general members, operating members, general partners, and principal officers.
    - b. Any individual owning 20 percent or more of the stock or other equity in the applicant.
- (b) A general description of the applicant's business including the goods sold and services provided.
  - (1) Businesses engaging in outdoor activities that are temporary/seasonal in nature shall be required to submit the specific dates, times and consecutive periods of time such activities are proposed to be conducted, a site plan for the proposed location that includes parking areas, sidewalk areas, fences, landscape areas, driveways and specific areas outside of a building where proposed business activities are to be conducted. Temporary/seasonal business licenses shall not extend beyond a one-year period from the application date.



- (c) A statement about the applicant's intended business hours.
- (d) If the applicant has a direct or indirect web or social media presence, the direct or indirect website address and social media information.
- (e) If the applicant or its employees or agents need to be licensed, registered, certified or otherwise approved by a federal, state, county or other officially recognized body or official in order to conduct the applicant's business in the city, copies of the pertinent documents must be submitted with the application.
- (f) If the applicant will have any hazardous, toxic, extra-flammable or explosive substances or materials on or within its business premises, the applicant shall provide a detailed list of those substances and materials, as well as of their location(s) on or within the premises in a form required by the city fire department.
- (g) If the applicant will have any especially valuable and easily transportable items or materials on or within its business premises, the application should generally describe those items.
- (h) Business hours and after hours contact information for one or more individuals who will have knowledge about and access to the applicant's city business premises at any time.
- (i) The application must be accompanied by any bond and proof of insurance including any required riders or endorsements, that are required by this chapter.
- (j) A signed approval and any required fees for a background check; and the application fees as provided in section 7-24.

#### Section 7-22 . License.

- (a) Unless otherwise provided in this chapter or by council resolution, a license issued pursuant to this chapter will be for a calendar year.
- (b) Licenses issued pursuant to this chapter shall be in a form provided by the clerk.
- (c) Licenses are non-transferable. If there is a change in the person owning a business or location, a new license must be obtained.
- (d) A licensee must notify the clerk of any change in the licensee's business address(s) and other information in the license application within 15 days of the change(s).
- (e) No person shall permit or allow, by lease or otherwise, another person to use or employ a license issued under this chapter.
- (f) A license issued pursuant to this chapter must be prominently displayed in an area of the licensee's business location(s) within the city that is generally open to and frequented by its customers, clients, patients, patrons or members of the public.

#### Section 7-23 - Investigation, processing and issuance.

- (a) Upon receipt of an application under this chapter, the clerk shall:
  - (1) Review the application to ensure it includes all required information and other materials.
  - (2) Transmit a copy of the application and other materials to the police chief, fire chief, treasurer, community and economic development director, building official, and county health officer (if applicable) for review and comment.
- (b) The officials to whom a copy of the application has been provided shall review it and report their findings as follows:

- (1) The police chief shall review the application and other information to determine whether the applicant or any individual identified in the application:
    - a. Has been found guilty or responsible or has pled guilty, no contest, or responsible to any crime, civil infraction, or municipal civil infraction that indicate the applicant or individual may not serve patrons in a fair, honest or open manner;
    - b. Has been found guilty responsible or has pled guilty, no contest, or responsible to any crime, civil infraction, or municipal civil infraction that indicate the applicant or individual has engaged or may engage in actions injuring to persons, damaging to property of others, or damaging to the environment or natural resources;
    - c. Has violated a provision of this chapter or an ordinance in another community similar to this chapter, or
    - d. Has been closely affiliated with other persons who meet the criteria of subparagraphs b. or c.
    - e. The business activities or premises would be in violation of federal law, state law or local ordinance.
  - (2) The fire chief shall review the application and other information to determine whether the premises, activities on the premises, and information about the premises, substances and materials to be located on the premises, and information provided complies with applicable fire codes.
  - (3) The treasurer shall review the application and other information to determine whether the applicant or any individual identified in the application is in default to the city due to a failure to pay real or personal property taxes, special assessments, water or sanitary sewer fees, fees or charges from city inspections staff, fees charged by any other city department for services, or any other amount due and owing the city.
  - (4) The community and economic development director shall review the application and other information to determine whether the proposed use of the premises and other aspects of the business will comply with applicable city zoning requirements. If community and economic development director is aware of information that the applicant, any individual identified in the application, or the premises from which the business is to be conducted have violated city zoning requirements, the community development director shall also provide that information to the clerk.
  - (5) The building official shall review the application and other information to determine whether the premises currently complies with applicable construction codes, property maintenance codes, or any city ordinance regarding the condition of property. If the building official is aware of information that the applicant, any individual identified in the application, or the premises from which the business is to be conducted has failed to comply with applicable construction codes, property maintenance codes, or any city ordinance regarding the condition of property, the building official shall also provide that information to the clerk.
  - (6) The county health office shall review the application to determine whether the premises currently comply with all applicable county and state health requirements.
- (c) Unless the information reported to the clerk pursuant to subsection (b) demonstrates that a license under this chapter should be denied as provided in section 7-27, the clerk shall issue the license when the application and other materials and information are complete, fees are paid, and the reports provided.

- (d) If, under federal or state laws, rules or regulations, any business for which a license application has been made under this chapter requires the council's consent or approval for issuance of a state license (such as for a liquor license under state law) or other reason that approval of the council must be given before a business license is issued under this article.

Section 7-24. - License fees.

- (a) Annual fees for licenses issued pursuant to this chapter shall be in amounts established by council resolution. Those fees shall not be prorated for licenses issued for a part of a year.
- (b) The fee for a license issued pursuant to this chapter that is not renewed prior to its expiration shall pay a late fee established by the council for that license.
- (c) If any applicable law, rule, regulation exempts any person from paying a fee for a license issued pursuant to this chapter, the license may be issued without payment of the fee.
- (d) Unless otherwise provided in this chapter, all license, certification and registration fees due under this chapter must be paid when the application is filed.
- (e) The required fee for each license shall be paid in full at the time of the submission of an application. No rebate or refund shall be made of any license fee or part thereof by reason of the death of the licensee or by reason of denial of the application, nonuse of the license or discontinuance of the operation of the retail or service business establishment. In the event the retail or service business moves its place of operation from one location in the city to another location in the city, a new license and fee shall be required for the new location in accordance with the terms and provisions of this article.
- (f) The city manager may, upon written request, waive a business license fee if it is determined that the business being conducted is for a charitable, religious, civic, educational or philanthropic purpose

Section 7-25-26 Reserved.

Section 7-27. - Reasons for denial, suspension and revocation.

The following are reasons for the clerk, police chief, fire chief, community and economic director, treasurer or their designees to deny issuance or renewal of or to suspend or revoke a license issued pursuant to this chapter.

- (a) No license for the operation of a business establishment in the city shall be issued if one or more of the following exists:
  - (1) The building or premises of the business does not comply with the provisions in terms of property maintenance code, zoning ordinance, fire regulations, health regulations or any other ordinances and regulations of the city;
  - (2) The building or premises of the business are in such unsanitary or unsafe condition as to endanger the public safety, health and welfare;
  - (3) The business activities or premises would be in violation of federal law, state law or local ordinance;
  - (4) The owner of the business establishment or such legal entity compromising the business establishment has unpaid real or personal property taxes or special assessments due to the city, or is otherwise indebted to the city;
  - (5) The applicant, if an individual, or any of the stockholders; or any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business; and the manager or

other person principally in charge of the operation of the business, have been convicted of any of the following offenses:

- a. An offense involving the use of force and violence upon a person.
  - b. An offense involving sexual misconduct, including, but not limited to, criminal sexual conduct, prostitution, and indecent exposure.
  - c. An offense involving narcotics, dangerous drugs or dangerous weapons.
  - d. An offense involving disorderly conduct related to sexual conduct.
  - e. An offense involving ordinance violations related to improper business activity.
- (6) Fraud, misrepresentation, false statement, or withholding of information contained in the application for license;
  - (7) Fraud, misrepresentation, false statement or withholding of information made in the operation of a business;
  - (8) Failure to comply with all conditions, standards, plans or agreements entered into, or imposed by the city, in connection with the issuance or continuance of the license, or failure to comply with all agreements or judgments entered into subsequent to the issuance of the license;
  - (9) Is a nuisance business.
  - (10) Has been denied a license or has had its license revoked within six months prior to the date of application.
  - (11) The failure of the applicant or a person identified in Section 7-21(a)(3) to comply with requirements applicable to, or the suspension or revocation of, any license, registration, certification or other approval of a federal, state, county or other officially recognized body or official which license, registration, certification or other approval is required to conduct the business in the city.
- (b) The premises in which the business is or will be located or the occupancy or use of that premises as indicated in the application will not comply with a zoning or construction code requirement.
  - (c) A license issued or recommended for issuance under this chapter may be denied, suspended, or revoked, or renewal of that license may be denied for any of the following reasons:
    - (1) Any reason in Section 7-22.
    - (2) While conducting business in the city, the licensee or any of the licensee's personnel:
      - (a) Violated a provision of this chapter or any other provision of this Code;
      - (b) Failed to comply with or the licensee's premises in the city failed to comply with any zoning requirements during that ownership or occupancy;
      - (c) Failed to comply with or the licensee's premises in the city failed to comply with any construction code, property maintenance code or any city ordinance regarding the condition of property within the city; or
      - (d) Within the past 12 months, the business has been determined to be a nuisance business.
    - (3) While conducting business in the city, the licensee or any of the business' personnel had a license, registration, certification or other approval of a federal, state, county or other officially recognized body or official which is required to conduct the business in the city suspended or revoked.

- (4) While conducting business in the city, the licensee or any of the business' personnel failed to comply with another applicable law, rule or regulation the violation of which could endanger the public health, safety or general welfare.
- (5) Failure by the licensee to permit the inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this section.
- (6) Failure by the licensee to report any change in location, use, ownership or occupancy of the licensed business.

Section 7-28. – Temporary/Seasonal business licenses:

When engaging in outdoor activities or building an exterior enclosure of goods, wares and merchandise including food items that are temporary or seasonal in nature a temporary or seasonal business license is required.

- (a) Unless approved by the city clerk as part of a temporary or seasonal business license or by a special use approval, the outdoor sale, display or storage of any goods or materials, including food, is hereby expressly prohibited, except for those items which are permitted to be stored outdoors in compliance with the Madison Heights Code of Ordinances and Zoning Ordinance.
- (b) The city clerk may, upon application for a temporary or seasonal business license, approve the outdoor sale or display if such activity is of a limited duration, such as, but not limited, a sidewalk sale, outdoor activity or seasonal sale affiliated with an existing licensed business and in compliance with the city zoning ordinance, or if such activity is conducted for a charitable, religious, civic, educational or philanthropic purpose but only if the applicant and its membership are conducting the activity without the assistance of professional solicitors or promoters.
- (c) Any activities approved under this provision shall comply with the other requirements of this article. The city clerk shall set the specific dates and times for the activities and may limit the number of consecutive days for such activities. This provision shall not supersede special approvals by city council under the zoning ordinance that allow the outdoor sale and display of goods, wares or merchandise, or the consumption of food in connection with restaurants or food establishments.
- (d) Businesses or activities which are temporary or seasonal in nature shall be required to complete an application for submission to the city clerk containing the specific dates, times and consecutive periods of time such activities are proposed to be conducted. The application must contain a site plan for the proposed location. The site plan shall indicate building locations, parking areas, sidewalk areas, fences, landscaped areas, driveways and the specific areas outside of a building where proposed business activities are to be conducted. Applications will not be accepted that include activity dates that extend beyond a one year period from the application date.

The community development department and the fire department shall review and approve the site plan before the application. The departments may, at their discretion, require changes to the site plan and that certain conditions or requirements be placed on the granting of a license. In rendering a decision as to any condition or requirement, the departments and city clerk shall take into consideration the health, safety and welfare of the public, including, but not limited to, such factors as the nature and intensity of the business or activity and its effect on the surrounding neighborhood; the effect of the business or activity on pedestrians or vehicular traffic, such as interference with ingress and egress or whether the business or activity causes obstructions to the flow of traffic or creates any other hazard, and whether such business or activity is offensive or hazardous at the specific location on the premises.

- (e) No license shall be issued prior to approval of the fire department, police department, treasurer, community development department, the county health officer, and all other required agencies, where applicable.

Section 7-29. - Display required.

All licenses issued under this Code must be displayed in a conspicuous location visible to the public. Further, each vehicle or mechanical device or machine required to be licensed by this article shall display, in a location clearly visible from the outside of the vehicle or device, such tags or stickers as are furnished by the city clerk and required by this Code.

Section 7-30. - Display of expired or duplicated license prohibited.

No person shall display any expired, suspended or revoked license or any license for which a duplicate has been issued.

Section 7-31. - Annual renewal for full-time, permanent licenses.

Unless otherwise provided in this article, an application for renewal of a current permanent license shall be approved by the city clerk provided that:

- (1) There are no unpaid real or personal property taxes, water bills, or special assessments due to the city.
- (2) The applicant is not otherwise indebted to the city.
- (3) A valid certificate of occupancy is in effect for the building occupied by the business.
- (4) Where required, the business is in full compliance with Article VII and Article XII of this chapter.

Section 7-32. – Reserved.

Section 7-33. - Procedure for appeal.

- (a) *Notice.* Any applicant who is denied an initial or renewal license, or has a license suspended or revoked, shall be entitled to a hearing before a hearing officer, appointed by city council, to determine if grounds for denial, non-renewal, suspension or revocation exist under sections 7-22 or 7-27. Such appeal shall be taken by the applicant or licensee within 21 days of written notice by the city of denial, nonrenewal, suspension or revocation. Such appeal shall be made in writing by the applicant or licensee and shall state the reasons for the appeal. The hearing shall be held within 30 days of receiving an appeal by an applicant or licensee. Notice of the hearing shall be in writing and served at least ten days prior to the date of hearing by serving the person in charge of the business establishment by first class mail at the address on the license or application. The notice shall state as follows:

- (1) The date, time and place of hearing.
- (2) Notice of the proposed action.
- (3) Reasons for the proposed action.
- (4) A statement that the licensee may appear and present evidence on their behalf and has the right to be represented by legal counsel.

Section 7-34. – Reserved.

Section 7-35. - Prohibitions for all licensees.

- (a) *Obstructing traffic:* No licensee shall block, obstruct, impede or otherwise interfere with the normal flow of vehicular or pedestrian traffic or with visibility upon a highway, street, alley, sidewalk or within public buildings in public areas within the city by means of a vehicle, barricade, object, snow, debris or device or with his or her person. A licensee shall not deposit, cause or allow to be deposited, snow, ice or slush originating from their property on any roadway, highway or public sidewalk. Further, no objects, signs, devices, or merchandise shall be located in the area between the public street and the property line.
- (b) *Noise:* No licensee shall unreasonably disturb the peace and quiet of the city by shouting out solicitations, blowing any horns or utilizing any amplification system or device to attract attention of the public.

Section 7-36. - Nuisance businesses.

- (a) The building official, community and economic development director, police chief, fire chief or their designees may preliminarily designate a business operating in the city as a nuisance business. If such a preliminary designation is made, written notice shall be given to the business stating that such a preliminary designation has been made and the basis for that preliminary designation. The notice shall be delivered to the business at the address and to the individual(s) provided in the business' general business license application if the business filed such an application. If the business is operating without a general business license, notice shall be delivered to the address at which the business activity is occurring and to such individual(s) at that address who purports or reasonably appears to be the operator of that business. The notice shall state that date and time of the hearing to declare the designation of a business as a nuisance business. It shall also inform the business of its rights to a hearing regarding that designation.
- (d) A business designated as a nuisance business must, within 30 days of that designation, correct all conditions or activities identified in the resolution designating it as a nuisance business or present plans acceptable to the city manager that will correct all those conditions or activities. If such corrections have been made within 30 days or accepted plans have been provided within 30 days, the city manager may, remove or conditionally remove the designation as a nuisance business.
- (e) If a business fails to correct the conditions or activities or submit acceptable plans for doing so within 30 days of an authorized city official's designation of the business as nuisance business per section 07-27, the general business license for that business shall be deemed to have been revoked and that business may no longer operate in the city until a new license is issued.
- (f) A business may appeal the revocation of its general business license with the hearing officer appointed by council pursuant to the procedure designated in section 07-33.

Section 07-37. - Violations.

- (a) Any person violating any provision of this article or any regulation promulgated under it for which a penalty is not specifically prescribed shall, upon conviction thereof, be punished as provided for in section 01-7 of this Code.
- (b) Each day that an offense occurs is a separate offense.
- (c) Violations of this chapter are also nuisances per se that may be abated and actions for abatement undertaken as provided in the Code or by applicable law, including without limitation, civil actions for equitable relief.

Sections 7-38—7-41. - Reserved.

### SECTION 3.

That Chapter 7, Article II be amended in entirety to read as follows:

#### ARTICLE II. - GENERAL BUSINESS LICENSES

##### Section 07-42. - City general business license required.

All persons:

- (1) Operating, conducting or carrying on any trade, profession, commerce, business or any other for-profit activity on a full-time, part-time, temporary, seasonal or otherwise at or from any location in the city involving the manufacture, purchase, sale or providing of goods or services and the related financial transactions;
- (2) Operating, conducting or carrying on any trade, profession, commerce, business or any other for-profit activity in the city that otherwise requires a license under this chapters; or
- (3) Nonprofit entity operating, conducting or carrying on any activity in the city for which it is paid fees or accepts money or other payment (other than donations) for goods or services in excess of \$25,000.00 in any 12-month period, must first obtain a general business license issued by the city.

##### Section 07-43. - Application and issuance.

An applicant must file an application for a general business license and the clerk shall process, investigate, issue, decline to issue, and otherwise address an application for a general business license as provided in article I of this chapter.

##### Section 7-44 - 7-45 – RESERVED.

### SECTION 4.

That Chapter 7, Article IV be amended to read as follows:

#### ARTICLE IV. - Vendor/Solicitors

##### Section 7-63. – Vendors/Solicitors License required.

All vendors/solicitors must obtain a general business license from the city that also states that the licensee is licensed as a vendor/solicitor under this article.

##### Section 7-64. - License application.

In addition to other information on the general business license application, the applicant for a vendor/solicitor license must also provide the following:

- (a) A list of all persons who will be engaging in activities on behalf of the applicant.
- (b) A list and description of the goods or services to be sold or for which orders are being solicited.



- (c) The address of any temporary location in the city that will be occupied by the applicant or anyone acting on the licensee's behalf and the written consent of the owner of that location.
- (d) The name and contact information of a responsible individual who can be contacted at any time any person is engaging in activities in the city on the licensee's behalf.

Section. 7-65. - Hours permitted; restrictions on location and prohibition of noise-making devise.

- (a) No vendor/solicitor shall call at any residence within the city on any day prior to 9:00 a.m., nor after 5:00 p.m. nor on any Sunday or legal holiday, except upon prior specific request of an occupant.
- (b) No vendor/solicitor shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall they be permitted to operate in any congested area where the operation might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer exercising good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- (c) No vendor/solicitor shall use at any location in the city, public or private, any device which will create a noise for the purpose of calling attention to such solicitor.

Section 7-66. - Entering residence without invitation.

No vendor/solicitor shall enter any residence within the city without the express invitation of an adult resident thereof.

Section. 7-67. - Creating a nuisance.

No vendor/solicitor shall threaten or annoy any resident of the city in the course of the business of the solicitor, or in any way engage in any conduct which is or would tend to create a nuisance.

Section 7-68. - Prohibition of solicitation where "no solicitation" has been requested.

No vendor/solicitor shall enter upon private, residential, business or commercial property and/or call upon a place of a private residence, business or commercial property within the city after having been expressly notified by the occupant or their representative, either verbally, in writing and/or by sign posted in a conspicuous place on the premises, that no solicitation is desired.

Section 7-69. - Charitable solicitation.

Charitable solicitation is governed by chapter 8 of the Code of Ordinances.

DIVISION 2. - LICENSE

Section. 7-70. - Required.

No person shall engage in the business of vendor/solicitor within the city without first obtaining a license therefor. No license shall be granted for a period of longer than one year or December 31, whichever comes first, after which an application of renewal shall be filed. Application for license shall be made to the city clerk. Upon certification to the city clerk by the chief of police after investigation, that the application is complete and that the information contained therein and other information known to the chief of police does not reasonably lead the chief of police to conclude that the applicant or activity to be licensed constitutes an apparent danger to the health, safety, and welfare to the people of the city, the license shall be issued by the city clerk. If county health department approval is needed, no license will be granted without that approval.

Section 7-71. - Application.

The license application filed under this division shall contain the following information:

- (1) Name and description of the applicant; driver's license number and date of birth;

Section 7-72. - Fee.

The fee for a solicitor's license shall be set by resolution of the city council and shall be deposited with the application.

Section 7-73. - Investigation; issuance of license.

- (3) If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval and return the application to the city clerk, who shall, upon confirmation that all fees have been paid, deliver to the applicant his or her license. The clerk shall keep a record of all licenses issued.

SECTION 5.

That Chapter 7, Article V be amended in entirety to read as follows:

ARTICLE V. - PAWNBROKERS

Section 7-82. - License required.

No person shall operate a business of a pawnbroker in the city without obtaining a general business license from the city in accordance with this chapter and a pawnbroker license issued by the mayor pursuant to this article and 1917 PA 273, MCL 446.201 et seq.

Section 7-83. - License application and issuance.

An application for a license under this article must be filed and a license will be issued in accordance with 1917 PA 273, MCL 445.201 et seq.

Section 7-84. - Records and business practices.

A licensee under this article must comply with the recordkeeping and other requirements of 1917 PA 273, MCL 446.201 et seq.

Sections. 7-85-95. - Reserved.

SECTION 6.

That Chapter 7, Article VI be amended in entirety to read as follows:

ARTICLE VI. - SECONDHAND DEALERS AND JUNK DEALERS

Section 7-96. - Secondhand dealer and junk dealer license required.

Secondhand dealers and junk dealers may only operate in the city with a general business license as provided in this chapter and after also obtaining a license issued by the mayor pursuant to this article and 1917 PA 350, MCL 445.401 et seq.

Section 7-97. - License application and issuance.

An application for a license under this article must be filed and a license will be issued in accordance with 1917 PA 350, MCL 445.401 et seq.

Section 7-98. - Records and business practices.

A licensee under this article must comply with the recordkeeping and other requirements of 1917 PA 350, MCL 445.401 et seq.

Sections 7-99 – 7-118. - Reserved.

SECTION 7.

That Chapter 7, Article VII be amended to read as follows:

ARTICLE VII. - REGULATED USES

Section 7-119. - Revocation or suspension of license.

Each establishment within the city for which a regulated use establishment license is granted shall be operated and maintained in accordance with all applicable laws and regulations of the City of Madison Heights and the State of Michigan. Upon any violation of this article, pursuant to sections 7-22 and 7-27, a city official as designated in sections 7-27 and 7-36 may revoke such license.

SECTION 8.

That Chapter 7, Article VIII be amended in entirety to read as follows:

ARTICLE VIII. - REGULATED SALES

Section 7-129. - Regulated sales license and requirements.

Regulated sales in the city must comply with the following:

- (a) They must be conducted pursuant to a regulated sales license issued pursuant to 1961 PA 39, MCL 442.211 et seq., and this article.
- (b) They must be conducted by a licensee with a general business license issued pursuant to this chapter.
- (c) They must be conducted at a location listed and included on the general business license issued pursuant to this chapter.
- (d) They must be conducted in compliance with 1961 PA 39, MCL 442.211 et seq., and this article.

Section 7-130. - Regulated sales license application.

- (a) An applicant for a license under this article must file an application in writing and under oath with the clerk that in a form provided by the clerk that provides the following information regarding the proposed sale:
  - (1) The name, postal address, telephone number, and electronic mail address of the applicant, who must own the goods to be sold. If the applicant is a person other than an individual, the name and the position of the individual filing the application.
  - (2) The name and style of the sale and the address where the sale is to be conducted.

- (3) The dates and time period during which the sale is to be conducted.
  - (4) The name, postal address, telephone number, and electronic mail address of the individual who will be in charge and responsible for the conduct of the sale.
  - (5) A full explanation of the condition or necessity which is the occasion for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. If the application is for a license to conduct a going out of business sale as defined in 1961 PA 39, MCL 442.211 et seq., it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, 1961 PA 39, MCL 442.211 et seq., it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the application is for a license to conduct a sale of goods damaged by fire, smoke, water or otherwise, it shall also contain a statement as to the time, location and cause of the damage.
  - (6) A full, detailed and complete inventory of the goods that are to be sold, which inventory shall:
    - a. Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it.
    - b. List separately any goods which were purchased during a 60-day period immediately prior to the date of making application for the license.
    - c. Show the cost price of each item in the inventory together with the name and address of the seller of the items to the applicant, the date of the purchase, the date of the delivery of each item to the applicant and the total value of the inventory at cost.
  - (7) A statement that no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.
- (b) A license application, including any application for renewal of a license issued under this article, must be accompanied by a license fee in an amount established by resolution of the city council.

Section 7-131. - License; issuance and restrictions.

- (a) After receiving an application including the information required by this article and filed by a general business licensee or applicant for a general business license, the clerk may issue a license to the applicant that:
  - (1) Authorizes the licensee to advertise, represent and sell the particular goods so inventoried at the time and place stated in the application and in accordance with this article.
  - (2) State the date of its expiration.
  - (3) Is valid only for the sale of the inventoried goods which the licensee owns and applies only to the premises specified in the application.
  - (4) May not be transferred or assigned.
- (b) If a licensee under this section is engaged in business at another location, the advertising or offering of goods must not represent or imply any connection with, participation in or cooperation with the sale on the premises specified in the license. No advertising or other offering of goods on behalf of the premises where the licensed sale is being conducted may be connected with, represent or imply any participation in or cooperation with such sale at other locations.
- (c) No license under this section authorizes or shall be issued to any person to:

- (1) Conduct a sale in the trade name or style of a person in whose goods the applicant for the license has acquired a right or title thereto within six months before applying for the license.
  - (2) Continue a sale in the name of a licensee under this section whose goods such person acquired a right or title to while such a sale is in progress.
  - (3) Conduct a sale, other than an insurance sale, a salvage sale or a sale of damaged goods, on the same premises within one year from the conclusion of a prior sale of the nature covered by this article.
- (d) A license to conduct a sale issued pursuant to this article is valid only up to 30 days.
- (e) A license issued under this article may be renewed not more than twice for a period not to exceed 30 days for each renewal upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to this section, by purchase, acquisition on consignment or otherwise.
- (1) The application for renewal of the license shall be made not more than five days prior to the time of the expiration of the license and must include a new inventory of goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory.
  - (2) No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license.

Section 7-132. - Regulated and prohibited acts.

- (a) No person in contemplation of conducting a sale under a license under this article shall order or purchase any goods for the purpose of selling and disposing of those goods at such sale. Each unusual purchase and additions to the stock of goods within 60 days prior to the filing of the application for license to conduct a sale under this article will be presumptive evidence that the purchases and additions to stock were made in contemplation of the sale and for the purpose of selling those goods at the sale and will be presumptive evidence of a violation of this article. Each constitutes a separate offense under this section and voids any license issued to conduct a sale under this article.
- (b) No person conducting a sale under a license under this article shall add, during the sale, any goods to the stock of goods described and inventoried in the original license application. No goods shall be sold at or during the sale, except goods described and inventoried in the original application. Every addition of goods to the stock of goods described and inventoried in the application and each sale of goods not inventoried and described in the application, will be presumptive evidence of a violation of this article and each will constitute a separate offense under this article, and will void a license issued under this article.
- (c) A license issued under this article is valid only for a sale of the goods inventoried and described in the license application, in the manner and at the time and place stated in the application. Removal of any goods listed in the application from the place of sale stated in the application will cause those goods to lose their identity as the licensee's stock of goods for the licensed regulated sale and no license will be issued for conducting a sale of any of such goods removed from the place stated in the application at any other place.
- (d) The following unfair and deceptive business practices are strictly prohibited in the course of a sale under this article:
  - (1) Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of the goods.

- (2) Representing that goods have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have.
- (3) Representing that goods are new if they are deteriorated, altered, reconditioned, used, or secondhand.
- (4) Representing that goods are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
- (5) Disparaging the goods of another by a false or misleading representation of fact.
- (6) Advertising or representing goods with the intent not to dispose of the goods as advertised or represented.
- (7) Making a false or misleading statement of fact concerning the reasons for, existence of, or amounts of price reductions, including, but not limited to, advertising and/or conducting a going out of business sale when the business continues to operate and advertising and/or conducting a removal sale when the business continues to operate at its current location.
- (8) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.
- (9) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.
- (10) Using any other deceptive representations in connection with the sale of goods.

Sections 7-133—7-149. - Reserved.

#### SECTION 9.

That Chapter 7, Article IX, section 7-151 is repealed in entirety; sections 7-150, 7-154-158 are amended to read as follows:

#### Section 7-150. – Commercial Snow Plowing and Removal License—Required.

No person shall engage in the business of removing snow by motor vehicles from the streets, sidewalks, driveways, parking lots or private property in the city without first having obtained a license therefor. The application shall include: the applicant's name, address, and telephone number; the name, address, telephone number, cell phone number, and e-mail address of the principal contact(s) for the applicant; and a description including the manufacturer, model, color, vehicle identification or serial number, and, if licensed for use on public roads, the license plate number of each truck, tractor, loader, or other vehicle the applicant may use when moving, removing or plowing snow in the city.

(a) The application shall be accompanied by a license fee in an amount established by resolution of the city council. The amount of the fee may be based on the number of vehicles that may be used for moving, removing or plowing snow in the city.

(b) The application shall be accompanied by current certificates of insurance showing the applicant has no-fault automobile and commercial general liability insurance coverage for the applicant's vehicles and business that is in compliance with the city's policy on public liability insurance.

(c) An applicant (or, once a license is issued, a licensee) shall update the list of vehicles that may be used to provide services in the city to coincide with vehicles actually used within the city by sending written notification to the city clerk referring to the name on its city license, its city license number, and a

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description including the manufacturer, model, color, vehicle identification or serial number, and, if licensed for use on public roads, the license plate number of each additional vehicle used in the city.

(d) Dump trucks or other vehicles used exclusively for hauling snow shall be exempt from the licensing provisions of this article. Dump trucks or other vehicles with blades, buckets, blowers or other equipment used to move, load, or lift snow or ice are not exempt from the licensing provisions of this article.

Section 7-154. Grounds for denial, suspension, revocation or nonrenewal.

In addition to grounds set forth elsewhere in this Code, any of the following are grounds for denying a license under this article or for the suspension, revocation, or nonrenewal of a license under this article after it is issued:

- (a) Violation of this chapter or of any other provision of this Code.
- (b) Failure to repair any damage to any public or private property resulting from any activities undertaken pursuant to a license issued under this division.
- (c) Information about incidents involving: (i) the applicant/licensee; (ii) any of the applicant/licensee's directors, members, officers, or employees; or (iii) agents of the applicant/licensee, such as, for example, individuals operating any vehicles or other equipment for the applicant/licensee that lead the city clerk to determine that activities of the applicant/licensee or those identified in subparagraphs (i) through (iii) under a license issued pursuant to this division may result in injuries to individuals or damage to property.
- (d) Information that the applicant/licensee's insurance coverage has expired, lapsed, been terminated or is otherwise reduced.
- (e) The applicant/licensee or the applicant/licensee's owner was convicted of, entered a guilty plea to, or entered another plea having the same effect as a guilty plea for sentencing purposes to a crime involving the destruction of property, "road rage," driving under the influence of or while impaired by alcohol, marijuana, or a controlled substance, fraud, deceit, trespass, unlawful entry, or theft.

Section 07-155. - License issuance, term and possession.

- (a) The city clerk shall review the application and supporting materials to determine whether they are complete and include all required information. In the city clerk's discretion, the city clerk may consult with others to determine whether any grounds exist for denying issuance or renewal of a snow plowing license.
- (b) If the city clerk determines after reasonable review that an application and supporting materials for a snow plowing license are complete, the applicable fee(s) paid, and there are no grounds for denial or nonrenewal, the city clerk shall issue the snow plowing license in a form prepared by the city clerk. The clerk shall provide enough certified copies of the license to enable the licensee to keep one certified copy in each of the licensee's vehicles used in the city.
- (c) The license term shall expire on September 30 following its issuance unless the license is issued after July 1 of any year, in which case it shall expire on September 30 of the following calendar year.

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(d) Provided the city clerk determines there are no grounds for nonrenewal, a snow plowing license may be renewed for successive one-year terms upon payment of the annual license fee to the city clerk and filing of updated information on the application with updated supporting materials.

(e) A licensee must keep a certified copy of a license issued under this division in each of the licensee's vehicles used to provide services in the city. That copy must be presented, upon request, to any city police officer, fire fighter, code inspector, or other city officer or employee authorized to issue municipal civil infraction citations or traffic citations or otherwise charged with enforcing city ordinances.

Section. 7-156. - License denial, suspension, revocation or nonrenewal.

If the city clerk determines there are grounds for denial, suspension, revocation or nonrenewal of a snow plowing license as provided in this chapter or in section 7-27, the City Clerk shall inform the applicant/licensee of the appeal procedure under section 7-33 of this Code.

Section 07-157. - Special equipment and identification.

(a) In addition to all equipment and lighting required by state law or another provision of this Code, any vehicle used for services provided in the city shall be equipped with a flashing, oscillating or rotating amber light placed in such position as to be visible throughout 360 degrees, which light shall be operated at all times that the vehicle is being used to move, remove or plow snow.

(b) Any vehicle used to provide services in the city shall plainly display on both sides of the vehicle, with letters and numbers at least three inches in height, the licensee's name and telephone or cell phone number as they appear on the licensee's application.

Section 07-158. - Violations.

Any person violating any provision of this article or any regulation promulgated under it for which a penalty is not specifically prescribed shall, upon conviction thereof, be punished as provided for in section 01-7 of this Code.

Sections. 7-159—7-164. - Reserved.

SECTION 10.

That Chapter 7, Article XII, be amended as follows:

ARTICLE XII. - MASSAGE PARLORS AND MASSAGE ESTABLISHMENTS

Section. 7-218. - Grounds for denial.

(a) *Grounds for mandatory denial.* No license for the operation of a massage parlor or massage establishment shall be issued if any department of the city determines that one or more of the following conditions exists:

(1) Any mandatory cause or grounds for denial contained in section 7-27.

(b) *Grounds for permissive denial.* The city may deny a massage parlor or massage establishment license if any of the following conditions exist. Applicants may appeal such denial pursuant to section 7-33.



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- (1) Any permissive cause or grounds for denial contained in sections 7-27.

Section 7-222. - Revocation or suspension of license.

Each establishment within the city for which a massage parlor or massage establishment license is granted shall be operated and maintained in accordance with all applicable laws and regulations of the City of Madison Heights and the State of Michigan. Upon any violation of this article, pursuant to sections 7-27 and 7-218, the hearing officer, may, after notice and hearing, revoke such license pursuant to the procedure in section 7-33.

SECTION 11.

That Chapter 7, Article XIII, is repealed in entirety to read as follows:

ARTICLE XIII. - PRECIOUS METALS AND GEM DEALERS

Section 7-240. - Registration certificate required.

No person shall engage in a business of a precious metal or gem dealer as defined in 1981 PA. 95, MCL 445.481 et seq., without having first obtained a certificate of registration from the city police department in addition to a general business license under this chapter.

Sec. 7-241. - Application for and issuance of certificate.

The application must be in a form and contain the information and accompanying information required by 1981 PA. 95, MCL 445.481 et seq. and the certificate shall be in a form required by 1981 PA. 95, MCL 445.481 et seq.

Section 7-242. - Purchase of coins.

In addition to those items for which records and notification to the police are required by 1981 PA. 95, MCL 445.481 et seq., any precious metal and gem dealer within the city who purchases coins of any kind, whether issued by the United States government or any foreign government, shall comply with the record and notification requirements as provided in the applicable state statutes and the provisions of this article.

Sections 7-243-7-255. - Reserved.

SECTION 12.

That Chapter 7, Article XIV, be amended as follows:

Sec. 7-256. - Insurance requirements.

No license shall be issued to any applicant under the provisions of this article until the applicant has deposited with the city a policy of public liability insurance which shall indemnify against any claim for damages suffered by reason of the licensee's acts. Said insurance to be in an amount that is in compliance with the city's policy on public liability insurance.

SECTION 13.

That Chapter 7, Article XIV, be amended as follows:

Sec. 7-271. - License required.

- (e) *Denial or revocation of license.* In the event that an application is denied by a department based on grounds for denial contained in this article and/or sections 7-23 and 7-27 of the Madison Heights Code of Ordinances, the clerk shall notify the applicant of the denial and advise the applicant of the right to appeal pursuant to section 7-33. In addition, a license may be revoked or denied for the following reasons:
- (1) In addition to sections 7-23 and 7-27 of the City of Madison Heights Code of Ordinances, the city may deny any application for a new license, or renewal of a license, if any of the following are shown to have occurred at the hotel property:
    - (A) The applicant makes a material misrepresentation of fact on the application;
    - (B) The applicant or any owner of the hotel has been found in violation of this article; or;
    - (C) Any owner, operator, manager, desk clerk or any other person in charge of any hotel has been convicted of any of the crimes enumerated in the definitions of section 7-270 herein.

#### Section 14.

That Chapter 7, Article XVIII, Medical Marihuana, be amended to read as follows:

#### Section 7-301. Definitions.

For the purpose of the provisions of this article, all words and phrases herein shall be construed to have the meanings as provided for in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 et seq., as amended, the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, and the Administrative Rules promulgated under the Administrative Procedures Act, 1969 PA 306, MCL 24.201 to 24.328, by the Department of Licensing and Regulatory Affairs, Bureau of Marihuana Regulation, Medical Marihuana Facilities, R 333.201 et seq., unless the context clearly indicates or requires a different meaning.

*Applicant* means an individual, person, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity or other business entity who applies for a local city license to operate a medical marihuana facility in the City of Madison Heights.

*Church* means an entire house or structure set apart primarily for use for purposes of public worship, and which is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure of which is kept for that use and not put to any other use inconsistent with that use.

*Enclosed locked facility* means a closet, room, or other comparable stationary and fully enclosed area equipped with secure locks or other functioning security devices that permit access only by a registered primary caregiver, or registered qualifying patient. Marihuana plants grown outdoors, are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level, or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that it is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient, or a person designated through the department registration process, as the primary giver, for the registered qualifying patient, or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access only to the registered qualifying patient, or the registered primary caregiver, who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(a) The vehicle is being used temporarily to transport living marihuana plants from one (1) location to another with the intent to permanently retain those plants at the second location.

(b) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong, or the individual designated through the Department of Registration process as the primary caregiver for the registered qualifying patient.

*Family child care home* and *group child care home* mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

*License* means a license issued by the City of Madison Heights under this article.

*Marihuana* means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

*Medical use* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transportation of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition, or symptoms associated with the debilitating medical condition, as further defined under the MMMA.

*Medical marihuana facility* means a location at which a license holder is licensed to operate under the MMFLA and this article.

*Minor* means an individual less than 21 years of age.

*MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended.

*MMFLA* means the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as amended.

*MRTMA* means to the Michigan Regulation and Taxation of Marihuana Act Initiated Law 1 of 2018, MCL 333.27952 et. seq currently, or as amended. ("MRTMA")

*Registered primary caregiver* means to a person meeting the definition of caregiver under the MMMA and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the MMMA.

*Registered qualifying patient* means a person meeting the definition under state law and who has been issued and possesses a registry identification card which is valid under the MMMA, as amended.

*Rules* or *administrative rules* means the administrative rules promulgated under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the Department of Licensing and Regulatory Affairs, Bureau of Marihuana Regulation, Medical Marihuana Facilities, R 333.201 et seq. enacted to implement the MMFLA.

*School building* includes buildings used for school purposes to provide instruction to children in grades kindergarten through 12, when that instruction is provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses. School does not include a proprietary trade or occupational school.

*State operating license* means a license that is issued under the MMFLA that allows the licensee to operate as a medical marihuana facility.

*Transfer* means to convey, sell, give, deliver, or allow the possession by another person or entity

All other terms used in this article have the same definitions ascribed to them in the MMFLA, the MMMA, or the administrative rules accordingly.

**Section 7-304. – repealed.**

**Section 7-313 - Registered Primary Caregiver Operations.**

Any registered primary caregiver may acquire, possess, cultivate, manufacture, transfer, or transport Medical Marihuana compliant with the MMMA, MCL 333.26421 et seq. as amended. Cultivation of Medical Marihuana by a registered primary caregiver as defined under the MMMA, is prohibited in any zoning district, except as specified in Article XII of the City's Zoning Ordinance and further subject to the following:

- (1) A registered primary caregiver may only grow, cultivate, manufacture, process, and store marihuana on a parcel in the Caregiver Marihuana Grow Overlay District boundaries as specified in Sec. 10.350 of this Ordinance and in an enclosed locked facility.
- (2) The registered primary caregiver is responsible for utilizing an enclosed locked facility in the Caregiver Marihuana Overlay District boundaries, compliant with the MMMA for cultivating, growing, manufacturing, processing, and storing marihuana for medical use only. The enclosed locked facility utilized by the primary registered caregiver, shall provide separation by fully enclosed walls, or fences, for plants that are grown on behalf of each registered qualifying patient, on whose behalf the registered primary caregiver is furnishing Marihuana for medical use, so it is accessible only to the primary caregiver and registered patient. The processing and storing of Medical Marihuana are permitted only by registered primary caregivers and registered qualifying patients.
- (3) The registered primary caregiver may grow up to a maximum of seventy-two (72) plants, but no more than twelve (12) plants for each individual registered qualifying patient as set forth in the MMMA.
- (4) The registered primary caregiver is responsible for providing the security necessary to assure that the growing marihuana and usable product are accessible for use only by the primary registered caregiver for transfer to, only to registered qualifying patients who are registered to the registered primary caregiver and must fully comply with the provisions of the MMMA.
- (5) Each parcel upon which enclosed locked facilities with marihuana for medical use are present, must be a minimum of one thousand (1,000) feet from any parcel upon which any school, school facility, child care facility, place of worship, or public park is situated. Measurement of the buffer shall be from property line to property line.
- (6) A Certificate of Occupancy is required and must be obtained from the City before the presence of marihuana is allowed on the parcel.
- (7) Marihuana plants grown outdoors in an enclosed, locked facility shall be subject to the requirements of this Article.
- (8) The consumption, transfer, or use of Marihuana, in public, or a place opened to the public is prohibited.

**Section 7-314. Registered Primary Caregiver License requirements.**

The operations of a registered primary caregiver within an approved zoning district shall only be permitted upon the issuance of a license to Cultivate Medical Marihuana. Such license is required to be renewed annually and is subject to inspections by the building and fire department as well as the law enforcement representative for compliance with the provisions of this Ordinance and for the issuance of the license and its renewals.

- (1) A complete and accurate application shall be submitted on a form provided by the City along with submission of the application fee. The application fee and renewal fee shall be an amount determined by resolution of the City Council.
- (2) The license application shall include the name and address of the applicant; the address of the property; a copy of the current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marihuana cultivation and processing; and a description of the location at which the use will take place. The city may require additional information necessary to demonstrate compliance with all requirements. The city shall review the application to determine compliance with this Ordinance, the MMMA and the MRTMA and any applicable Michigan Regulatory Agency General Rules. A license shall be granted if the application demonstrates compliance with this Ordinance and the MMMA
- (3) The use shall be maintained in compliance with the requirements of this Ordinance and the MMMA. Any departure shall be grounds to revoke the license and take other lawful action. If a license is revoked, the applicant shall not engage in the activity unless and until a new Authorization to Cultivate Medical Marihuana license is granted.
- (4) Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the city, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.

#### SECTION 14. Repealer.

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

#### SECTION 15. Severability.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

#### SECTION 16. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

#### SECTION 17. Effective Date.

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

#### SECTION 18. Inspection.

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.

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Rosalyn Grafstein, Mayor

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Cheryl Rottmann, City Clerk

CERTIFICATION:

I, Cheryl Rottmann, the duly appointed City Clerk of the City of Madison Heights, County of Oakland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Madison Heights City Council at their Regular Meeting held on \_\_\_\_\_, 2021.

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Cheryl Rottmann, City Clerk

City Council First Reading: October 11, 2021  
Adopted/ Public Hearing: October 25, 2021  
Published: November 10, 2021  
Effective: November 10, 2021