

**CITY OF AUBURN HILLS**  
**ORDINANCE NO. 22-934**

AN ORDINANCE TO AMEND ARTICLE VIII-PROHIBITION OF MARIHUANA ESTABLISHMENTS AND MEDICAL MARIHUANA FACILITIES, OF CHAPTER 18-BUILDINGS AND BUILDING REGULATIONS, OF THE AUBURN HILLS CODE OF ORDINANCES, AS AMENDED, TO ADD NEW SECTIONS 18-233 – 18-240 TO PROVIDE FOR AN APPLICATION, LICENSING, AND APPROVAL PROCESS FOR THE FOUR ADULT USE MARIHUANA ESTABLISHMENTS THAT ARE AUTHORIZED TO BE ALLOWED IN THE CITY OF AUBURN HILLS BY THE INITIATED ORDINANCE APPROVED BY THE VOTERS ON NOVEMBER 8, 2022 AND SECTION 18-232 – LIMITATION OF ADULT USE MARIHUANA ESTABLISHMENTS.

**THE CITY OF AUBURN HILLS ORDAINS:**

**SECTION 1.**

**Article VIII – Prohibition of Marihuana Establishments and Medical Marihuana Facilities, of Chapter 18-Buildings and Building Regulations of the Auburn Hills Code of Ordinances, as Amended, shall be amended to add Sections 18-233-18-240 to read as follows:**

**Section 18-233. Municipal license required; eligibility; general provisions.**

- 1) The City hereby authorizes the operation of the following types of marihuana establishments:
  - a) Adult use marihuana establishments, which term includes marihuana retail establishments subject to the requirements of Sections 18-232-18-240 and the Initiated Ordinance.
- 2) No person shall operate an adult use marihuana establishment at any time or any location within the City unless a currently effective municipal license for that person at that location has been issued under and pursuant to Sections 18-232-18-240 and the Initiated Ordinance. No adult use marihuana establishments are allowed, nor shall a municipal license be considered or granted for those activities and facilities defined as a "special license," being a state license described under Section 8 of the MRTMA and issued by the state pursuant to Section 9 of the MRTMA, MCLA 333.2798 and 333.27959, as may be amended, including, but not limited to, designated consumption establishment, excess marihuana grower, marihuana event organizer, temporary marihuana event, and any special license types hereafter recognized by the state.  
Adult use marihuana establishments shall operate only as provided in Sections 18-232-18-240, the Initiated Ordinance, and other applicable Ordinances, not in direct conflict with Sections 18-232-18-240 and the Initiated Ordinance.
- 3) 240, the Initiated Ordinance, and other applicable Ordinances, not in direct conflict with Sections 18-232-18-240 and the Initiated Ordinance.
- 4) The City Manager is granted the power to fully and effectively implement and administer the municipal license application process.

- 5) The requirements set forth in Sections 18-232-18-240 shall be in addition to, and not in lieu of, any other licensing or municipal licensing requirements imposed by applicable federal, state, or local laws, regulations, codes, or ordinances.
- 6) Each applicant shall pay nonrefundable review fees, application fees, annual fees, renewal fees, and inspection fees for municipal licenses to the City to defray the costs incurred by the City for inspection, administration, and enforcement of the local regulations regarding adult use marihuana establishments. The City Council shall, by resolution, set the fees in an amount not to exceed any limitations imposed by Michigan law. The municipal license fee requirement shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or City law or Ordinance, including, by way of example, any applicable zoning or building permits.
- 7) The City has no obligation to process or approve any incomplete application.
- 8) A municipal license shall remain valid for one year following removal of all stipulations on an issued municipal license.
- 9) It is the sole and exclusive responsibility of each municipal license holder or applicant at all times during the application period and during its operation to immediately provide the City with all material changes in any information submitted on an application and any other changes that may materially affect any state license or its City municipal license.
- 10) No municipal license issued under this Ordinance may be assigned or transferred to another person or entity except as specified in this Ordinance. No municipal license issued under this Ordinance is transferrable to any other location except for the municipally licensed premises on the municipally licensed property.
- 11) The original municipal license issued under this Ordinance shall be prominently displayed at the municipally licensed premises in a location where the public, law enforcement and administrative authorities can easily view it.
- 12) A municipal license holder may not engage in any other adult use marihuana establishment in the municipally licensed premises or on the municipally licensed property, or in its name at any other location within the City, without first obtaining a separate municipal license.
- 13) No municipal license shall be granted or renewed for an adult use marihuana establishment in a residence or for any location that does not meet the location requirements set forth in Section 18-232 and Section 5 of the Initiated Ordinance, and the location requirements of Section 18-232 and Section 5 of the Initiated Ordinance shall take precedence and be controlling over those provisions of the Auburn Hills Zoning Ordinance that would prohibit an adult use marihuana establishment, which term includes a marihuana retail facility, from operating in a location authorized by Section 18-232 and Section 5 of the Initiated Ordinance.

**Section 18-234. Application for and renewal of municipal license.**

- 1) Application documents. Application documents for a municipal license for an adult use marihuana establishment shall be submitted to the City Clerk on or after this Section's effective date and shall contain the following information. Information obtained from the applicant is exempt from public disclosure under state law. Upon receipt, review, and approval, as outlined in this Ordinance of all application documents by City staff, the documents will be considered a complete application.

- a) The name, address, phone number, and email address of the applicant of the proposed adult use marihuana establishment.
- b) All applicants' names, home addresses, and personal phone numbers of the proposed adult use marihuana establishment.
- c) One copy of the following:
  - i) Prequalification for a recreational marihuana establishment license by the State of Michigan and the date said prequalification was issued by the State of Michigan.
  - ii) All documentation of the applicant's valid ownership, recorded interest, or other legal interest in the proposed municipally licensed property and municipally licensed premises and the date said ownership, recorded interest, or other legal interest was acquired by the applicant.
  - iii) If the applicant is a corporation, nonprofit organization, limited liability company, or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan, and a certificate of good standing.
  - iv) A valid, unexpired driver's license or state-issued ID for all applicants for the proposed adult use marihuana establishment.
  - v) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
  - vi) Nonrefundable adult use marihuana establishment application document review fee.
  - vii) Business and operations plan, showing in detail the adult use marihuana establishment's proposed plan of operation, including, without limitation, the following:
    - (1) A description of the adult use marihuana establishment proposed and the anticipated or actual number of employees.
    - (2) A security plan meeting the requirements of Section 18-235.1(c).
    - (3) A description by category of all products to be sold.
    - (4) An affidavit indicating the applicant will, before applying for a building permit:
      - (a) Submit a list of material safety data sheets for all chemicals proposed for use in the adult use marihuana establishment.
      - (b) Submit a comprehensive report identifying all hazardous materials and processes that will be utilized by the adult use marihuana establishment. This list must include all cleaning supplies, as well as chemicals used and/or produced at the establishment. The report shall determine the acceptability of technologies, processes, products, facilities, materials, and uses attending the design, operation, or use of a building or premises. All hazardous materials and chemicals must be listed as to how to handle the disposal of these materials. The opinion and report shall be prepared by a qualified third person, firm, or corporation approved by the City.
    - (5) A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from outside of the municipally licensed premises.
    - (6) A plan for the disposal of marihuana and related by-products that will be used at the adult use marihuana establishment.

- viii) Whether any applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
    - ix) A detailed plan of the municipally licensed premises and the municipally licensed property, which plan shall contain the information required by Section 1815 of the Auburn Hills Zoning Ordinance.
    - x) Information regarding any other adult use marihuana establishment that the applicant or any of the applicant's owners, directors, officers, or managers is authorized to operate in any other jurisdiction within the state, or another state, and their involvement in each adult use marihuana establishment.
  - d) Any other information reasonably requested by the City to be relevant to the processing or consideration of the application.
- 2) Review of application documents. Applications must be complete, and the proposed location in the City of the adult use marihuana establishment must be in compliance with the locations specified in Section 18-232 and Section 5 of the Initiated Ordinance and if the applications are complete and comply with said locational requirements, then priority for applications will be given as provided in Section 18-232 and the Initiated Ordinance, with said priority not guaranteeing approval of any particular application. Also, applications shall be considered on a competitive basis as required herein and as set forth by MCLA 333.27959(4), as may be amended. All application documents submitted by a potential applicant will be reviewed by City staff for completeness with the requirements of this Ordinance before being considered a complete application. All application documents will be stamped or otherwise identified by City staff at the date and time they are submitted by a potential applicant.
- a) City staff has a reasonable amount of time to review the application documents and determine if they are complete.
  - b) Complete application documents will be accepted as an application under this Ordinance and processed. A determination of a complete application shall not prohibit the City from requiring supplemental information at any time during the application process.
  - c) If application documents are found to be incomplete, the prospective applicant will be notified in writing of the deficiencies and given ten business days to correct those deficiencies.
    - i) If the deficiencies are corrected within the ten business days, the application documents will be considered complete and accepted as an application under this Section.
    - ii) If deficiencies are not corrected within the ten business days, the application documents will be returned to the prospective applicant. If the prospective applicant wishes to resubmit application documents, they must be resubmitted in their entirety with a new application document review fee. This resubmission will be considered a new set of application documents and will be newly date and time stamped.

- 3) Competitive process shall be as follows:
- a) A limited number of municipal licenses are available to be issued for adult use marihuana establishments due to a cap of four (4) adult use marihuana establishments imposed by Section 18-232. If the number of applications exceeds the number of municipal licenses available, the City Manager shall open a window. The timing and duration of the window shall be determined by the City Manager. If a municipal license is available for an adult use marihuana establishment, the City Manager must open a window at least once per calendar year.
  - b) At the end of a window, if the number of applications for an adult use marihuana establishment municipal license exceeds the number of available municipal licenses, the City shall decide among applications by a competitive process intended to select the applicant(s) who are best suited to operate in compliance with the City's Ordinances and the Act within the City, with priority being given as set forth in Section 18-232 and the Initiated Ordinance; however said priority does not guarantee that a license shall be issued for any proposed adult use marihuana establishment.
  - c) Applications to be included in the competitive process include all those whose application documents were date and time stamped as submitted prior to the end of the window and which were able to be considered complete and accepted as an application.
  - d) The applicants and their applications will be ranked in the order of which is best suited to operate within the City in compliance with Sections 18-232-18-240, the Initiated Ordinance, and those City Ordinances not in direct conflict with Sections 18-232-18-240, the Initiated Ordinance, and the Act, as determined by the City Manager or his or her designee. This ranking will be used to fill available municipal license slots, starting with the best-suited applicant and application, until all available municipal license slots are filled. The competitive criteria to be used shall be as follows:
    - i) Review of the applicant's completely submitted, detailed application (including plans which address the provisions of this section and related provisions, such as security, lighting, processing, handling of hazardous waste, site plans, recordkeeping, disposal, water/utility, ventilation, odor, etc.), which illustrates compliance with the locational requirements of Section 18-232 and Section 5 of the Initiated Ordinance, likely success of the proposed business, and harmony of the proposed site with surrounding properties;
    - ii) Whether the applicant is currently in default/arrears on any taxes or fees otherwise due to the City, has a history of noncompliance or violations with City ordinances or applicable laws, or has been served with any complaint or notice filed by or with any public body regarding the delinquency in the payment of any tax required under federal, state or local law;
    - iii) Whether the applicant is/was a business operating in the City of Auburn Hills within the past two years;
    - iv) Whether the applicant has a history of criminal conviction/plea, other than as specified by the MRTMA, MCLA 333.27958(1)(c), as may be amended;
    - v) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other

- jurisdiction that has been denied, restricted, suspended, revoked, or not renewed, or has proceedings pending related to such;
  - vi) Whether the applicant filed, or had filed against it/him/her, a proceeding for bankruptcy or been involved in any formal process to adjust, defer, suspend or otherwise work out payment of a debt in the past seven years;
  - vii) Whether there is planned future outreach on behalf of the proposed business and whether the applicant has made, or plans to make, significant physical improvements to the building housing the adult use marihuana establishment;
  - viii) Whether the applicant has taken steps to encourage employee retention, attract highly capable workers, train employees, and any other employee-employer factors tending to show a successful workforce;
- 4) Processing and review of applications.
- a) An application will be held until a window is established to select the applications to fill an available municipal license slot.
  - b) An application will be considered for a municipal license slot through the competitive process as specified in this Section. When an applicant is awarded the municipal license slot through the competitive process, the applicant will be notified and will be given five business days to pay the adult use marihuana establishment application fee. If an applicant does not pay the fee within the time allotted, the next application as ranked by the competitive process during the applicable window will be issued the municipal license slot.
  - c) Upon payment of the adult use marihuana establishment application fee by an applicant, the City Clerk shall refer a copy of the application to the department head or designated staff person of the following for their review and approval: the Police Department, the Fire Department, the Community Development Department and any other applicable departments or consultants.
  - d) In order for an adult use marihuana establishment application to be approved and a municipal license to be issued, all of the following conditions must be met:
    - i) The applicant has passed a criminal background check conducted by the City of Auburn Hills Police Department.
    - ii) The Community Development Department has confirmed that the proposed location complies with Section 18-232, Section 5 of the Initiated Ordinance, buffer requirements, setback and other dimensional requirements, and conducted a review of the detailed plan submitted.
    - iii) At a public meeting, the City Council has approved the detailed plan proposed for the adult use marihuana establishment and has approved the issuance of the municipal license.
    - iv) The applicant must not have a conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten years or conviction of a controlled-substance-related felony within the past ten years, except that, consistent with MCLA 333.27958(1)(c), as may be amended, a prior conviction solely for a marihuana-related offense does not disqualify an individual or otherwise affect eligibility for licensure, unless the offense involved distribution of a controlled substance to a minor.

- v) Other than as set forth in MCLA 333.27958(1)(c), as may be amended, within the past five years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or having been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.
- vi) The applicant has not knowingly submitted an application for a license that contains false, misleading, or fraudulent information, or has not intentionally omitted pertinent information on the application for a municipal license.
- e) Following review by City departments and prior to the approval of a plan and municipal license for the proposed adult use marihuana establishment by the City Council, if deficiencies are found in the application, the applicant is notified in writing of the areas of deficiency and given 30 days to correct those deficiencies. If the deficiencies are considered by City staff to be corrected, the applicant's plan and request for a municipal license will be considered by the City Council. If the deficiencies are not considered to be corrected within the 30-day time period, the application will be deemed incomplete and denied. Another application will then fill the municipal license slot.
- f) All inspections, review, and processing of the application shall be completed within 90 days of payment of the adult use marihuana establishment application fee or within 120 days if the location of the municipally licensed premises is proposed to be amended from an existing municipally licensed location. The processing time may be extended upon written notice by the City for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the municipal license.
- g) If all required conditions have been met, the City Clerk shall issue the municipal license to the applicant.
  - i) All municipal licenses issued have the following stipulations:
    - (1) Issuance of license qualification by the State of Michigan for the municipal license holder under state law and the City of Auburn Hills receiving a copy of that license qualification prior to occupancy.
    - (2) Issuance of final certificate of occupancy for the municipally licensed premises by the Community Development Department. All construction must be in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules, or regulations.
    - (3) Issuance of final approval by the State of Michigan and the City of Auburn Hills receiving a copy of the final approval prior to the business opening.
  - ii) A municipal license holder has one year from the date of issuance to meet all stipulations of the municipal license. If all stipulations are not met in this time frame, the municipal license is revoked and considered denied. A municipal license holder may request an extension up to six months to this time frame, which may be granted by the City Clerk.
- h) If a municipal license is denied, the denial must be in writing and must state the reason(s) for denial.
  - i) Applications that are denied will not be refunded the adult use marihuana establishment application fee.

- ii) If the applicant of a denied application chooses to resubmit, this resubmission will be considered a new set of application documents and will be date and time stamped at the date and time they are resubmitted. A new adult use marihuana establishment application fee will be required.
  - i) Upon denial, withdrawal, or failure for any reason of an application within six months of a competitive process being used to rank applicants and their applications as detailed in Section 18-234(3) the available municipal license slot will be awarded to the next best suited applicant and application as determined in that process. However, if more than six months have passed since the last competitive process, a new window must be opened to fill the municipal license slot and all applications will be treated as new submissions.
  - j) Denial of an application or nonrenewal of a municipal license may be appealed to the City Manager, who will set a date and time within ten business days to conduct a hearing where the applicant can be heard. The City Manager may uphold the denial, reverse the denial, or take such other action deemed appropriate. Appeals from the final determination of the City may be taken to a court of competent jurisdiction; during an appeal, another applicant for a municipal license slot may be considered by the City.
- 5) Renewal application. Renewal applications shall require City approval.
- a) Renewal applications for an adult use marihuana establishment maintaining the location of the municipally licensed premises shall be received by the City Clerk not less than 90 days before the expiration of the annual municipal license. Renewal applications for an adult use marihuana establishment requesting a change in the location of the municipally licensed premises shall be submitted and received not less than 120 days prior to the expiration of the municipal license, and the proposed new location shall meet the locational requirements of Section 18-232 and Section 5 of the Initiated Ordinance.
  - b) A renewal application must follow the same approval process as all new applications with the exception of the following:
    - i) For any information required as part of the application process that has not changed, the municipal license holder may submit an affidavit of no changes in place of the information when submitting a renewal application. If any of the items requested in the application process has changed, such items must be submitted as required in this Ordinance.
    - ii) A municipal license holder, as a stipulation of a renewal municipal license issued by the City, must provide proof of having submitted a license renewal application no later than 30 days after expiration of their state license. Once a renewed state license has been granted, a copy must be provided to the City Clerk.
    - iii) A renewal municipal license issued by the City takes effect on the date of expiration of the original municipal license issued, and the municipal license holder has one year from that date until renewal is again required.
  - c) A municipal license holder whose municipal license expires and for which a complete renewal application has not been received by the expiration date shall be deemed to have forfeited the municipal license under this Ordinance. They will be considered denied. The City will not accept renewal applications after the expiration date of the municipal license.
  - d) A municipal license holder issued a renewal municipal license by the City that is either denied a renewal license by the State of Michigan or that does not meet all stipulations



within six months of the renewal municipal license being issued will have their municipal license revoked and considered denied.

- 6) Changes to application or municipal license.
  - a) If, at any time before or after a municipal license is issued pursuant to this Section, any information required in the municipal license application, the MMFLA, MRTMA, Michigan Cannabis Regulatory Agency Rules, or any rule of regulation promulgated thereunder, changes in any way from that which is stated in the application, the applicant or municipal license holder shall supplement such information in writing within ten days from the date upon which such change occurs.
    - i) Changes to a new application will be considered a minor or major change as determined by the City Clerk.
      - (1) Minor changes include a change of address or other personal information of an applicant.
      - (2) Major changes include changing the location of the adult use marihuana establishment, whether it be to a different site or changing the size of any new buildings, nature of the adult use marihuana establishment, a change of applicant entity, or other similar changes. A major change will result in the application being returned to the applicant. If the applicant wishes to resubmit, the resubmission will be considered a new set of application documents and will be date and time stamped for processing at the date and time they are resubmitted. Any fees will not be waived.
    - ii) An applicant or municipal license holder has a duty to notify the City in writing of any pending criminal charge, and any criminal conviction, of a felony or other offense involving a crime of moral turpitude by the applicant, any owner, principal officer, director, manager, or employee within ten days of the event.
  - b) An applicant or municipal license holder has a duty to notify the City in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law and/or rule related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana, the MMMA, the MMFLA, the MRTMA, Michigan Cannabis Regulatory Agency, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana by the applicant, any owner, principal officer, director, manager, or employee within ten days of the event.
  - c) A municipal license approved for an adult use marihuana establishment in the City may be assigned or transferred to another person or entity for the same location only if all of the following are true:
    - i) A municipal license has been issued and all stipulations for that license have been met including written final approval by the State of Michigan for state licensure.
    - ii) All current municipal license holders submit an affidavit approving the transfer.
    - iii) The person(s) or entity proposed to receive the transferred municipal license submit application documents and are issued a municipal license transfer approval. Issuance of a municipal license transfer approval includes the following:

- (1) Certification of a completed application per the process of this Section. The applicant may submit an affidavit of no change to the municipally licensed premises to forego the application requirements as they pertain to the municipally licensed premises if no physical changes will be completed as part of the assignment or transfer.
  - (2) Payment of a license transfer review fee as set by the City Council.
  - (3) Review of the application per this Section. If an affidavit of no change to the municipally licensed premises is submitted, review of corresponding information and the requirement for a City Council plan and license approval would be considered satisfied.
  - (4) Issuance or denial of the municipal license transfer approval will be completed per this Section and will be considered met when the applicant has all required licenses or permits in their name. Where an affidavit of no change to the municipally licensed premises has been filed, the stipulation for a required proof of final occupancy will be waived.
  - (5) Until the municipal license transfer approval is issued, the existing municipal license will remain with the current municipal licensee holder. Transfer of the municipal license will not change its date of expiration.
- 7) Expiration of application. An application shall be valid for a period of one year from the date of application, after which time the application shall expire.

**Section 18-235. Operational requirements for adult use marihuana establishments.**

- 1) An adult use marihuana establishment issued a municipal license under this Ordinance and operating in the City shall at all times comply with the following operational requirements, which the City may review and amend from time to time as it determines reasonable.
  - a) Scope of operation. Adult use marihuana establishments shall comply with all respective applicable codes of the local zoning, building, and health departments and shall comply with operational requirements and rules of the MRTMA, MMFLA, and the Michigan Cannabis Regulatory Agency. The adult use marihuana establishment must hold a valid local municipal license and state marihuana establishment license for the adult use marihuana establishment intended to be carried out on the municipally licensed property. The adult use marihuana establishment operator, owner or licensee must have documentation available that local and state sales tax requirements, including holding any licenses, if applicable, are satisfied.
  - b) Required documentation. Each adult use marihuana establishment shall be operated from the municipally licensed premises on the municipally licensed property. No adult use marihuana establishment shall be municipally licensed to operate from a movable, mobile or transitory location, except for a municipally licensed or licensed secure transporter when engaged in the lawful transport of marihuana. No person under the age of 18 shall be allowed to enter into the municipally licensed premises without a parent or legal guardian.
  - c) Security. Municipal license holders shall at all times maintain a security system that meets state law requirements and, in addition, shall also include the following:

- i) Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, seven days a week, and which will contact local law enforcement if triggered;
  - ii) A locking safe permanently affixed to the municipally licensed premises that shall store all marihuana and cash remaining in the adult use marihuana establishment overnight;
  - iii) All marihuana in whatever form stored at the municipally licensed premises shall be kept in a secure manner and shall not be visible from outside the municipally licensed premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the municipally licensed premises; except that drive-through and walk-up windows that are physically attached to the adult use marihuana establishment building may be utilized to sell marihuana to the adult use marihuana establishment's customers, provided said drive through or walk up windows comply with both the Michigan Cannabis Regulation Agency's rules and requirements and the City's Ordinances, including the Zoning Ordinance; and
  - iv) All security recordings and documentations shall be preserved for at least 30 days by the municipal license holder and made available to any law enforcement upon request for inspection.
- d) Operating hours. No adult use marihuana establishment shall operate between the hours of 8:00 p.m. and 8:00 a.m.
  - e) Amount of marihuana. The amount of marihuana on the municipally licensed property and under the control of the municipal license holder, owner or operator of the adult use marihuana establishment shall not exceed that amount permitted by the state license or the City's municipal license.
  - f) Sale of marihuana. The marihuana offered for sale and distribution must be packaged and labeled in accordance with state law. The adult use marihuana establishment is prohibited from selling, soliciting, or receiving orders for marihuana or marihuana products over the internet.
  - g) Sign restrictions. Signs, pictures, photographs, drawings or other depictions on the outside of any municipally licensed premises shall comply with all provisions of the MRTMA, LARA rules, Michigan Cannabis Regulatory Agency rules, and the City of Auburn Hills Ordinances, including the Zoning Ordinance.
  - h) Use of marihuana. The sale, consumption or use of alcohol or tobacco products on the municipally licensed premises is prohibited. Smoking or consumption of controlled substances, including marihuana, on the municipally licensed premises is prohibited.
  - i) Indoor operation. All activities of the adult use marihuana establishment, including, without limitation, the sale of marihuana, and all other related activity municipally licensed under the municipal license holder's license or municipal license must occur indoors, except that permitted drive through or walk up windows are allowed. The adult use marihuana establishment's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the municipally licensed premises. No consumption of marihuana shall take place on the premises of an adult use marihuana establishment.

- j) Distribution. No person operating an adult use marihuana establishment shall provide or otherwise make available marihuana to any person who is not legally authorized to receive marihuana under state law.
- k) Permits. All necessary building, electrical, plumbing and mechanical municipal licenses must be obtained for any part of the municipally licensed premises.
- l) Waste disposal. The municipal license holder, owner and operator of the adult use marihuana establishment shall use lawful methods in controlling waste or by-products from any activities allowed under the license or municipal license. All waste or by-products stored must be contained in a dumpster that is locked or located within a locked enclosure.
- m) Proof of insurance. A municipal license holder shall at all times maintain in full force and effect for the duration of the license workers' compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan. A municipal license holder shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the City of Auburn Hills and its officials and employees as additional insureds with the limits required by this Subsection, with said insurance coverage for the additional insureds to be primary and noncontributory. A licensee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of the insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within five business days in the event of expiration or cancellation of coverage.
- n) Transportation.
  - i) Marihuana may be transported by a secure transporter within the City, and to effectuate its purpose, only:
    - (1) By persons who are otherwise authorized by state law to possess marihuana;
    - (2) In a manner consistent with all applicable state laws and rules, as may be amended; and
    - (3) In a secure manner designed to prevent the loss of marihuana.
  - ii) No vehicle used for the transportation or delivery of marihuana under this Ordinance shall have for markings the words "marihuana," "marijuana" or "cannabis" or any similar words; pictures or other renderings of the marihuana plant; advertisements for marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture; or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting marihuana.
  - iii) No vehicle may be used for the ongoing or continuous storage of marihuana, but it may only be used incidental to, and in furtherance of, the transportation of marihuana.
- o) Additional conditions. The City may impose such reasonable terms and conditions on an adult use marihuana establishment use as may be necessary to protect the public health,

safety and welfare and to obtain compliance with the requirements of this Ordinance and applicable law.

**Section 18-236. Penalties and consequences for violation.**

- 1) In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances, a violation of the provisions of Sections 18-232-18-240 and the Initiated Ordinance or failure to comply with any of the requirements of Sections 18-232-18-240 and the Initiated Ordinance shall constitute a civil infraction punishable by a fine of up to \$500, plus the costs of prosecution. Each day a violation continues shall be considered a separate offense.
- 2) The owner of record or user of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties and forfeitures provided above, except as excluded from responsibility by state law.
- 3) In addition to any other remedies, the City may institute proceedings for injunction, mandamus, abatement, or other appropriate remedies to prevent, enjoin, abate, or remove any violations of Sections 18-232-18-240 and the Initiated Ordinance. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

**Section 18-237. City liability and indemnification**

- 1) By accepting a municipal license issued by the City, the municipal license holder waives and releases the City, its officers, elected officials, employees, and insurers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of adult use marijuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- 2) By accepting a municipal license issued by the City, all municipal license holders agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a municipally licensed property, arising out of, claimed to have arisen out of, or in any manner connected with the operation of an adult use marijuana establishment or use of a product distributed or sold that is subject to the municipal license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c), or any other alleged violation of the law.
- 3) By accepting a municipal license issued by the City, a municipal license holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of any existing law, including the federal Controlled Substances Act, 21 U.S.C. § 801 et seq., or Chapter 7 of the Michigan Public Health Code, MCLA 333.7101 et seq., as may be amended.

**Section 18-238. Municipal license as a revocable privilege.**

- 1) A municipal license granted by the City is a revocable privilege granted by the City and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. Each municipal license is exclusive to the municipal license holder, and a municipal license holder or any other person must apply for and receive the City's approval before a municipal license is transferred, sold, or purchased. A municipal license holder or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a municipal license without prior state and local approval is grounds for suspension or revocation of the municipal license or for other sanction considered appropriate by the City.
- 2) Nonrenewal, suspension or revocation of municipal license. The City may, after notice and hearing before the City Council, suspend, revoke, or refuse to renew a municipal license for any of the following reasons:
  - a) The applicant or municipal license holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Ordinance or with any applicable state or local law or regulation.
  - b) The applicant or municipal license holder, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its municipal license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the municipal license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the municipal license.
  - c) The adult use marihuana establishment has been operated in a manner that adversely affects the public health, safety, or welfare.
- 3) Evidence to support a finding under this Section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the adult use marihuana establishment or in the immediate area surrounding such adult use marihuana establishment, a continuing pattern of criminal conduct directly related to or arising from the operation of the adult use marihuana establishment, or an ongoing nuisance condition emanating from or caused by the adult use marihuana establishment. Criminal conduct as described herein shall be violations of a state law or regulation or City ordinance.

**Section 18-239. Authorization to inspect, search and examine.**

An adult use marihuana establishment and all articles of property in the adult use marihuana establishment are subject to inspection, search and examination at any time by a member of the Auburn Hills Police Department, the Department of State Police, Auburn Hills Fire Department, Auburn Hills Community Development Department or the Auburn Hills City Manager's Office, and the application for an adult use marihuana establishment constitutes consent by the applicant, and all owners, managers, and employees of the adult use marihuana establishment, and the owner of the property to permit the aforementioned City and State employees and/or officials to conduct routine examination and inspection of the adult use marihuana establishment to ensure compliance with Sections 18-232-18-240, the Initiated Ordinance, or any other applicable law, ordinance, rule, or regulation without a search warrant and consent to seizure of

any surveillance records, camera recordings, reports, or other materials required as a condition of a municipal license without a search warrant.

**Section 18-240. Other laws and ordinances.**

In addition to the terms of Sections 18-232-18-240 and the Initiated Ordinance, any adult use marihuana establishment shall comply with all City ordinances, including, without limitation, the City Zoning Ordinance, and with all other applicable state and local ordinances, laws, codes and regulations, including, but not limited to, the rules and regulations of the Michigan Cannabis Regulatory Agency.

**SECTION 2. 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 3. Severability.**

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

**SECTION 4. 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 when they were commenced.

**SECTION 5. Effective Date.**

The provisions of this Ordinance are hereby ordered to take effect upon publication in the manner prescribed by the Charter of the City of Auburn Hills.

**SECTION 6. Adoption.**

This Ordinance is hereby declared to have been adopted by the City Council of the City of Auburn Hills at a meeting thereof duly called and held on the 5<sup>th</sup> day of December, 2022, and ordered to be given publication in the manner set forth in this Ordinance and as prescribed by the Charter of the City of Auburn Hills.

AYES:	6 (Carrier, Hawkins, Knight, Marzolf, McDaniel, Verbeke)
NAYES:	None
ABSENT:	1 (Cionka)
ABSTENTIONS:	None

STATE OF MICHIGAN	)
COUNTY OF OAKLAND	)

I, the undersigned, the duly qualified and acting Mayor and City Clerk for the City of Auburn Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 22-934 adopted by the Auburn Hills City Council at a regular meeting held on the 5<sup>th</sup> day of December, 2022, the original of which is in my office.

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Kevin R. McDaniel, Mayor

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Laura M. Pierce, City Clerk