

MOTION BY: ROBINSON
SUPPORTED BY: O'DONNELL

TO ADOPT AND PUBLISH THE FOLLOWING AMENDMENT TO CODE OF ORDINANCES, ARTICLE XI- MARIHUANA BUSINESSES AND TO PROVIDE FOR REPEALER, SEVERABILITY AND EFFECTIVE DATE.

CITY OF UTICA
MACOMB COUNTY, MICHIGAN ORDINANCE

NO.178

THE CITY OF UTICA ORDAINS:

Section 1. Preamble. The purpose of this ordinance is to promote and protect the public health, safety and welfare and provide for the consistent and safe regulation of in order to preserve public health, safety and welfare, promote efficient feasible and safe processes, provide for the harmonious and reliable development of property in a cost effective, efficient and safe manner.

Section 2. The Code of Ordinances for the City of Utica, Article XI—Marihuana Businesses, is hereby amended as follows:

ARTICLE MARIHUANA BUSINESSES

DIVISION 1. - IN GENERAL

Sec. 14-601. - Short title.

This article shall be known and cited as the "Marihuana Business Ordinance" of the City of Utica and will be referred to herein as this article.

Sec. 14-602. - Definitions.

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

Applicant means a person who applies for a license to operate a medical marihuana-provisioning center; marihuana retailer; medical marihuana grower; marihuana grower; marihuana processor;

marihuana transporter; marihuana safety compliance facility, designated consumption lounge or marihuana microbusiness under this article.

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

Designated consumption establishment means a location where a state-licensed provisioning facility is authorized to permit adults 21 years of age and older to consume marihuana and marihuana products on premises as permitted by the rules and regulations adopted by the Bureau of Marihuana Regulation (BMR).

Marihuana means that term as defined in the MRTMA.

Marihuana establishment means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed under the MRTMA.

Marihuana grower means a person licensed under the MRTMA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana microbusiness means a person licensed under the MRTMA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

Marihuana processor means a person license under the MRTMA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana retailer means a person licensed under the MRTMA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Marihuana secure transporter means a person licensed under the MRTMA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Marihuana safety compliance facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

Medical marihuana facility means any facility, entity, establishment, or center that is required to be licensed under the MMFLA and this article, including a medical marihuana grower, medical marihuana processor, medical marihuana provisioning center, medical marihuana safety compliance facility, and/or a medical marihuana secure transporter.

Medical marihuana grower means a person licensed under the MMFLA to cultivate, dry, trim, or cure and package marihuana for sale to a medical marihuana processor, medical marihuana provisioning center, or another medical marihuana grower.

Medical marihuana processor means a person licensed under the MMFLA to purchase marihuana from a grower and extract resin from the marihuana or create a marihuana-infused product for sale and

transfer in packaged form to a medical marihuana provisioning center or another medical marihuana processor.

Medical marihuana provisioning center means a person licensed under the MMFLA to purchase marihuana from a medical marihuana grower or medical marihuana processor and sell, supply, or provide marihuana to registered qualifying patients, directly or through the patients' registered primary caregiver.

Medical marihuana safety compliance facility means a person licensed under the MMFLA to fake marihuana from a marihuana facility or receive marihuana from a registered primary caregiver, test the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, return the test results, and return the marihuana to the marihuana facility.

Medical marihuana secure transporter means a person licensed under the MMFLA to store marihuana and transport marihuana between marihuana facilities for a fee.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act MCL 333.27954 et seq.

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

Secs. 14-603—14-610. Reserved.

DIVISION 2. - LICENSING AND APPEALS

Sec. 14-611. - Required license.

It shall be unlawful for any person to operate a medical marihuana facility or a marihuana establishment in the City without a valid license therefor issued by the City Clerk in accordance with the provisions of this article.

Sec. 14-612. - Marihuana business licenses.

(a) Pursuant to section 205 of the MMFLA, MCL 333.27205, the City shall authorize no more than four medical marihuana provisioning centers in the City as follows:

- (1) Up to two medical marihuana provisioning centers that shall be located contiguous to the west side of Van Dyke Avenue, and south of Hall Road (M-59). There shall be a buffer of at least 700 feet-between these centers as measured from the nearest point of the property line to property line.
- (2) Up to two medical provisioning centers that shall be located on a parcel that is contiguous to Park Avenue.

- (b) Pursuant to section 6 of the MRTMA, MCL 333.27956, the City shall authorize no more than four marihuana retailer licenses in the City that shall co-locate with the location of a licensed medical marihuana provisioning center.
- (c) The City shall authorize no more than one marihuana grower license and one medical marihuana grower license that shall be co-located at the same location and in an area zoned for industrial use.
- (d) The City shall authorize no more than two marihuana processor and two designated consumption lounge licenses that shall be co-located with a medical provisioning center on a parcel that is contiguous to Park Avenue.
- (e) The City shall not authorize any licenses to operate a medical marihuana safety compliance facility, medical marihuana secure transporter or a marihuana microbusiness in the City.
- (f) The 1000-foot restriction in MCL 333.27959(3)(c) is hereby eliminated.

Sec. 14-613. - License applications.

- (a) Any person seeking to operate a medical marihuana provisioning center, a marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower shall file a license application with the City Clerk upon a form provided by the City. The application shall include the following information:
 - 1) The full name, date of birth, physical address, email address, and telephone number of the applicant in the case of an individual; or, in the case of an entity, the full name, date of birth, physical address, email address, and telephone number of all stakeholders with a 5 percent equity stake or higher thereof.
 - 2) If the applicant is an entity, the entity's articles of incorporation or organizational documents.
 - 3) If the applicant is an entity, the entity's employer identification number.
 - 4) If the applicant is an entity, the entity's operating agreement and bylaws.
 - 5) Proof of ownership of the entire premises wherein the marihuana establishment is to be operated or written consent from the property owner for use of the premises in a manner requiring licensure under this Chapter along with a copy of the lease for the premises.
 - 6) A proposed marketing, advertising, and business promotion plan for the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower or marihuana grower.
 - 7) A description of planned tangible capital investment in the city.
- An explanation of the economic benefits to the City and job creation to be achieved, including the number and type of jobs the medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget

and revenue of the medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower.

- 9) A description of the financial structure and financing for the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower including proof of funds and or accountant attested financials.
- 10) Short-term and long-term business goals and objectives for the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor; designated consumption lounge or marihuana grower.
- 11) A criminal background report on the Applicant's criminal history. Such reports shall be obtained by the applicant and, if applicable, each stakeholder through the Internet Criminal History Access Tool (ICHAT) for applicants or stakeholders residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants or stakeholders who reside in other states or have resided in other states within five years prior to the date of the application. The applicant or stakeholder is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within 30 days of the date of the application. Failure to provide the criminal history report may result in disqualification of the application at the City's sole discretion.
- 12) A description of the security plan for the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower that is consistent with the requirements of the department.
- 13) A floor plan of the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower.
- 14) A scale diagram illustrating the property upon which the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower is to be operated, including all available parking spaces, and specifying which parking spaces are handicapped-accessible.
- 15) Depiction of any proposed text or graphic materials to be shown on the exterior of the proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower.
- 16) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the city.

- 17) If the applicant is applying for a license to operate a medical marihuana provisioning center, proof that the applicant has received prequalification approval from the department to become licensed pursuant to the MMFLA.
 - 18) If the applicant is applying for a license to operate a marihuana retailer facility, proof that the applicant has received prequalification approval from the department to become licensed pursuant to the MRTMA.
- (b) Except as provided by law, all materials submitted to the City as part of an application shall be exempt from disclosure under the Freedom of Information Act and exempt from disclosure pursuant to MCL 333.27401(5).

Sec. 14-614. - Application fee.

An application for a license shall be accompanied by a non-refundable application fee to help defray administrative and enforcement costs associated with the operation of the medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower which shall be in the amount of \$5,000.00 per license requested.

Sec. 14-615. - Application review.

- (a) The City Clerk shall review each application to ensure that it is complete, that the information required by this article has been submitted, and that the application fee has been paid. The City Clerk may reject any application that is not complete, or that is for a parcel that is not designated for the requested license type and may deny an application for failure to pay the full application fee.
- (b) Upon receipt of a completed application meeting the requirements of this article and the appropriate license application fee, the City Clerk shall refer a copy of the application to each of the following for their review: the chief of police, fire chief, the building inspector, the City planner, and the City Treasurer. (c) No application shall be approved, and no license shall issue unless:
 - (1) The fire chief and the building inspector have inspected the proposed location for compliance with all applicable laws for which they are charged with enforcement and for compliance with the requirements of this article.
 - (2) The City planner has confirmed that the proposed location complies with the relevant provisions of the City of Utica Zoning Ordinance and this article.
 - (3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the city.
- (d) After the effective date of this article, the City Council shall establish an application window for the Clerk to begin accepting applications for medical marihuana provisioning

centers, marihuana retailers, medical marihuana growers, marihuana processor, designated consumption lounge and marihuana growers.

- (e) The City Council shall designate one or more people to assess, evaluate, score and rank all applications for licenses to operate a medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge and marihuana grower per category.
- (f) The City Council shall adopt a scoring system for the applications that may include the following factors:
 - (I) Applicant is prequalified by the department and intends to obtain a license under the MRTMA and/or MMFLA.
 - (2) Proposed medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower will be consistent with land use for the surrounding neighborhood and aesthetics, has sufficient parking and does not have a detrimental effect on traffic patterns and resident safety.
 - (3) Applicant proposes tangible capital investment and significant physical improvements to real property by eliminating existing blight, deteriorated or in a building that was vacated on or before February 1, 2024.
 - (4) Applicant or any of its stakeholders do not have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare and have a history of charitable community engagement in the City of Utica prior to the date of the application.
 - (5) Applicant possesses sufficient resources to fund the Applicant's proposed marijuana facility plan and business plan pursuant to the application.
 - (6) Applicant presents a proposed staffing plan, complete with description of duties, proposed wages, benefits and employee qualifications, with a focus on the benefit to the community from the proposed staffing plan.
 - (7) Applicant proposes to remodel an existing structure and does not displace an existing business.
 - (8) Applicant and the majority of its ownership has an interest in an existing operating and licensed business in the City.
 - (9) Applicant demonstrates significant improvement to real property by removing the presence of hazardous substances or environmental hazards, including, but not limited to, soil and groundwater contaminants, lead paint, asbestos, which may exist on the proposed location.
 - (10) Applicant provides a security plan that includes secure storage of marihuana, 24/7 video surveillance (both inside and outside the facility), to deter and prevent theft and diversion, and a detailed plan for recordkeeping and inventory management.

- (11) Whether the Applicant or any of its stakeholders have an ownership interest in the proposed establishment property.
- (12) Any other criteria deemed appropriate by the City Council.
- (g) Overall scoring and ranking shall be conducted and applied by the person or people designated by the City Council on the basis of assigned points.
- (h) The City Clerk shall forward all information including scoring and ranking information to the City Council who, at the next council meeting unless postponed at the sole discretion of the City Council or otherwise provided herein, shall award licenses as follows:
 - (1) To the extent licenses are available or not otherwise already awarded and pursuant to this ordinance, a license to operate a medical marijuana provisioning center to each of the four highest scoring medical marijuana provisioning center Applicants and a license to each marijuana retailer that is proposed to be co-located with the medical marijuana provisioning center.
 - (2) One license each to the highest scoring medical marijuana grower and marijuana grower if both applicants are co-located. If the highest scoring medical marijuana grower and marijuana grower are not co-located, both licenses shall be awarded to the highest scoring Applicant for either medical marijuana grower or marijuana grower.
 - (3) One license each to the highest scoring marijuana processor and designated consumption lounge if both Applicants are co-located. If the highest scoring marijuana processor and designated consumption lounge are not at the same location, only one license shall be awarded to the highest scoring marijuana processor or designated consumption lounge.
 - (4) In the event of an evaluation scoring tie, which causes there to be more than one Applicant who achieve scores sufficient to qualify for a license of any type, the scoring-tied Applicants will be entered into a random draw. Those Applicants randomly selected shall be eligible to receive a license to operate a medical marijuana provisioning center, marijuana retailer, medical marijuana grower, marijuana processor, designated consumption lounge or marijuana grower.
 - (5) In the event that the number of medical marijuana provisioning center, marijuana retailer, medical marijuana grower, marijuana processor, designated consumption lounge or marijuana grower license initially awarded is less than the maximum number authorized under this article or subsequently falls below the maximum number authorized under this article, the City Council shall establish deadlines for the submission of new applications which shall be scored and ranked and licenses awarded as provided herein.
 - (6) In no event shall the number of medical marijuana provisioning center, marijuana •retailer, medical marijuana grower, Marijuana processor, designated consumption lounge or marijuana grower licenses exceed the maximum number authorized under this ordinance.

Sec. 14-616. - Transfer of licenses.

(a) Licensees may not transfer a license issued under this article to a different location, parcel, or building. (b) Licensees may transfer ownership of a license issued under this article to a different individual or entity only upon receiving written approval from the State of Michigan.

Sec. 14-617. - Term of licenses.

Approval of a license shall be for a period of one calendar year and may be renewed as provided herein.

Sec. 14-618. - Renewal of licensees.

- (a) Application for a license renewal shall be made in writing to the City Clerk at least 30 days prior to the expiration of an existing license.
- (b) An application for a license renewal required by this article shall be made under oath on forms provided by the City Clerk and shall contain substantially all of the information required in an initial application.
- (c) An application for a license renewal shall be accompanied by a renewal fee to help defray administrative and enforcement costs associated with the operation of the medical marihuana provisioning center, marihuana retailer, medical marihuana grower or marihuana grower which shall be set by resolution of the council but shall not exceed \$5,000.00 per license.
- (d) Upon receipt of a completed application for a license renewal meeting the requirements of this article and the license renewal fee, the City Clerk shall refer a copy of the renewal application to the fire chief and the building inspector.
- (e) No application for a license renewal shall be approved unless:
 - (1) The fire chief and the building inspector or another relevant department have within the past calendar year, inspected the location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements.
 - (2) The City planner or another relevant department has confirmed that the location complied with the relevant provisions of the City of Utica Zoning Ordinance at the time the license was granted.
 - (3) The licensee possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA or MRTMA.
 - (4) The licensee has operated the medical marihuana provisioning center, marihuana retailer, medical marihuana grower or marihuana grower in accordance with the conditions and requirements of this article.

- (5) The licensee is operating the medical marihuana provisioning center, marihuana retailer, medical marihuana grower or marihuana grower in accordance with the MMFLA or MRTMA.
- (f) If written approval is given by each department or entity identified in this section, the City Clerk shall issue a license renewal to the licensee. The renewal shall be deemed approved if the City has not issued formal notice of denial 60 days of the filing date of the application.
- (g) By October of each year, the licensee shall file written documentation with the City Clerk of licensee's compliance with the capital improvements, commitments, remediation, and strategies that were included in the license application.

Sec. 14-619. - License Revocation, Suspension and Denial; Basis for Action; Appeal.

- (a) Any license issued under this Article may be revoked or suspended by the City Clerk after an administrative hearing if the City Clerk finds and determines that grounds for revocation or suspension exist. Any grounds for revocation or suspension must be provided to the licensee at least ten (10) days prior to the date of the hearing by first class mail to the address given on the License Application or any address provided-to the City Clerk in writing subsequent to the filing of an application.
- (b) A license applied for or issued under this Article may be denied, revoked or suspended on any of the following bases:
 - (1) A violation of any provision of this Article, including, but not limited to, the failure to provide the information required by this Article; or
 - (2) Any conviction of a felony or any misdemeanor involving controlled substances, theft or dishonesty by the licensee, stakeholder, or any person holding an ownership interest in the license; or
 - (3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this Article requires a license; or
 - (4) Failure to obtain or maintain a license or renewed license from the City Clerk pursuant to this Article; or
 - (5) Failure of the licensee or the medical marihuana facility to obtain or maintain a license or approval from the state pursuant to the MMFLA; or

- (6) The medical marihuana facility is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare; or
 - (7) Any default in the payment of any charges, taxes, or fees, to the City if not cured upon forty-five (45) days following notice sent by electronic means or mail to the address of the medical marihuana facility; or
 - (8) Failure to meet any of the obligations, plans, commitments, capital improvements or other items that were part of the licensee's application.
 - (9) Violation of any State law applicable to medical marihuana facilities, including statutes or rules as adopted-or approved by the City and or for failure to execute what the Applicant stated they would do in their application.
- (c) Appeal of-denial of an Application, or revocation or suspension of a license: the City Clerk shall notify an applicant of the reason(s) for denial of an Application for a license or license renewal or for revocation or suspension of a license or any adverse decision under this Article and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial or revocation or suspension of a license or adverse decision under this Article may appeal to the City Clerk, who shall appoint a hearing officer or officers to hear and evaluate the appeal and make a recommendation to the Clerk. Such appeal Shall be taken by filing with the City Clerk, within fourteen (14) days after notice of the action complained of has been mailed to the applicants last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal The hearing shall consist of the parties briefing the issues and oral arguments if requested by any of the parties to the hearing. The City Council shall review the report and recommendation of the hearing officer and make a decision on the matter.

Sec. 14-620. - Penalties; Temporary Suspension of a License

- (a) The City may require an applicant or licensee of a medical marihuana facility to produce documents, records, or any other material pertinent to the investigation of an Application or alleged violation Of this Article. Failure to provide the required material may be grounds for application denial or license revocation.
- (b) Any person in violation of any provision of this Article, including the operation of a medical marihuana facility without a license issued pursuant to this Article shall be subject to a civil fine and costs. Increased civil fines may be imposed for a repeat violation. As used in this section "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or medical marihuana facility within any twenty-four (24) month period. Unless otherwise specifically provided in this Article, the penalty schedule is as follows:
 - (1) Seven Hundred Fifty Dollars (\$750), plus costs, for the first violation.
 - (2) One Thousand Dollars (\$1,000), plus costs, for a repeat violation.

- (3) Three Thousand Dollars (\$3,000), plus costs, per day, plus costs, for any violation that continues for more than one day.
- (c) All fines imposed under this Article shall be paid within forty-five (45) days after the effective date of the order imposing the fine or as otherwise specified in the order.
- (d) The Clerk may temporarily suspend a medical marihuana facility license without a prior hearing if the Mayor finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The Clerk shall cause the temporary suspension by issuing a suspension notice in connection with the institution of proceedings for notice and a hearing.
- (e) If the Clerk temporarily suspends a license without a prior hearing, the licensee is entitled to a hearing within thirty (30) days after the suspension notice has been served on the licensee or posted on the licensed premises. in the case of a license issued for a medical marihuana grower facility, the hearing shall be held within seven (7) days after the notice has been served on the licensee or posted on the premises of the licensed medical marihuana facility. The hearing shall be limited to the issues cited in the suspension notice.
- (f) If Clerk does not hold a hearing within thirty (30) days after the date the suspension was served on the licensee or posted on the licensed premises, or in the case of a grower facility within seven (7) days, then the suspended license Shall be automatically reinstated and the suspension vacated.
- (g) The penalty provisions of this Article are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

sec. 14-621. - No Vested Rights.

A property owner, lessor, license applicant, or licensee shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Article or any amendment of this Article, nor any property interest in any license application or issued license.

secs. 14-622—14-630. - Reserved.

DIVISION 3. - REGULATIONS

Sec. 14-631. - License requirements.

A medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor or marihuana grower license issued under this article shall be subject to the following conditions:

- (a) Compliance with the requirements of this article, other applicable City ordinances and codes, and applicable state laws.

- (b) Signs displayed on the exterior and interior of any medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marijuana processor, designated consumption lounge or marihuana grower shall conform to City ordinance requirements. No signs shall contain the words "marihuana," "marijuana," "cannabis," "weed," "ganja," "dank," "smoke," "Mary jane," or "blunt" or similar marihuana related euphemisms nor shall any sign contain marihuana leaves.
- (c) Operation of a medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, or marihuana grower shall not, either directly or indirectly, cause or create any noise, dust, vibration, glare, fumes, or odors constituting a nuisance and also detectable to human senses beyond the boundaries of the property on which the facility is operated.
- (d) A license that is issued under this article Shall be posted at all times inside the medical marihuana provisioning center, marihuana retailer, medical marihuana grower, marihuana processor, designated consumption lounge or marihuana grower in a conspicuous location near the entrance. Unless co-located, the licensees shall be 700 feet apart as measured property line to property line between the marihuana facilities.
- (e) Except at designated consumption lounges, consumption of marihuana shall be prohibited at the marihuana establishment and a sign shall be posted on the premises indicating that consumption is prohibited on the premises.
- (f) Except at designated consumption loungers that are permitted by the state, the marihuana establishment shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- (g) The facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.

Sec. 14-632. - Sales prohibited during certain hours.

No licensee, employee, or agent of a licensee shall sell or purchase by sale, barter, exchange, or otherwise, any item under a license issued pursuant to this chapter from or to any person or entity between the hours of 10 p.m. and 8:00 a.m. of the following day. Except for designated consumption lounges which may operate between the hours of 12 p.m. and 2 a.m.

Sec. 14-633. - Compliance with state laws.

Each licensee and employee must comply with the terms of state laws, including, but not limited to, the MMFLA and the MRTMA, any amendments thereto, as well as any rules promulgated pursuant to the MMFLA or the MRTMA. Nothing in this article is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan. This ordinance permits authorizations for activity based on the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. Nothing in this article shall be construed as allowing persons to engage in conduct that

endangers others or causes a public nuisance, or to allow marihuana uses and activities not in strict accordance with the express authorizations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

Sec. 14-634. - Compliance with all local ordinances.

Every licensee and employee shall comply with all the requirements of any City ordinance.

Sec. 14635. - Minors prohibited.

No person shall permit any person under the age of 21 years to come upon or remain on the premises of any business licensed herein, except as provided by the MMFLA.

Sec. 14-646. - Liability to and indemnification 'of City.

- (1) By submitting an application, Applicant waives any and all rights to contest the constitutionality, legality, validity, or any other aspect of this ordinance, its scoring factors and related scoring system.
- (2) By accepting a license issued under this Ordinance, the licensee waives and releases the City and its officials, employees, agents, insurers and successors and assigns from any liability for injuries, damages or liabilities of any kind that may result from any arrest or prosecution of facility owners and their successors and assigns, operators, employees, clients, or customers for a violation of state or federal laws.
- (3) By accepting a license issued under this Ordinance, the licensee and their successors and or assigns agrees to indemnify, defend and hold the City and its officials, employees, agents, insurers and successors and assigns, harmless against all liability, claims or demands for bodily injury, sickness, disease, death, property loss or damage, or any other liability, including without limitation for: (i) injury to business or diminution of property value by a property owner whose property is located in proximity to a facility; (ii) claims arising out of the operation of, or use of a product cultivated, processed, distributed or sold by or from, a facility; (iii) alleged violation of the federal Controlled Substances Act, 21
(a) U.S.C. 5801 et seq.; and (iv) damages, costs, expenses, and attorney fees incurred by the City in relation to this ordinance and/or in defending this ordinance and/or its decision to approve the license,

Sec. 14-637. - Penalty.

Any person who violates this article shall be responsible for a municipal misdemeanor and punished by a fine of not more than \$500.00.

Section 3. Repealer. All ordinances or parts of ordinances in conflict herewith are repealed as necessary to give this ordinance full force and effect.

Section 4. Severability. If any article, section, subsection, sentence, clause, phrase, portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the City that this ordinance shall be fully severable.

Section' 5. Effective Date. The ordinance shall become effective upon adoption and publication.

AYES: O'DONNELL, DIONNE, RYAN, ROBINSON, CALANDRINO

NAYS: SIKORA

ABSENT: TERENZI

ORDINANCE DECLARED ADOPTED.

GUS CALANDRINO, Mayor

Attested:

Lori Cooke, City Clerk

CERTIFICATION

I, LORI COOKE, City Clerk for the City of Utica, County of Macomb, State of Michigan, certify that this is a true copy of an ordinance adopted by the Council of the City of Utica at its regular meeting on March 12, 2024.

Lori Cooke, City Clerk

PUBLICATION DATE:

05/27/2024, 2024

Paper: Macomb Daily