

## CITY OF ALBION ORDINANCE 2018-1

### **AN ORDINANCE TO AUTHORIZE MEDICAL MARIHUANA FACILITIES LICENSING AND REGULATIONS AND CREATE ARTICLE V OF CHAPTER 22 OF THE ALBION CODE OF ORDINANCES**

FINDINGS AND PURPOSE: The Michigan Legislature enacted Public Acts 281-283 of 2016 known as the Medical Marihuana Facilities Licensing Act. This Act sets forth the rules, regulations, and standards for five types of medical marihuana facilities authorized under Michigan law. In order for any of those facilities to operate within the City of Albion, the City must first enact an ordinance providing for the same. The City Council has previously authorized the licensing of four of the five allowable facilities. This ordinance outlines the standards, application process, licensing process, and penalties for violations.

THAT THE CODE OF ORDINANCES, CITY OF ALBION, MICHIGAN, IS HEREBY AMENDED BY ADDING ARTICLE V TO CHAPTER 22, WHICH READS AS FOLLOWS:

Section 1:

CHAPTER 22, ARTICLE V: MEDICAL MARIHUANA FACILITIES

#### **22-200. LEGISLATIVE INTENT.**

The purpose of this Chapter is to exercise the police regulatory and land use powers of the City of Albion by licensing and regulating, Grower Facilities, Safety Compliance Facilities, Processor Facilities and Secure Transporter to the extent permissible under State of Michigan and federal laws and regulations and to protect the public health, safety and welfare of the residents of the City of Albion; and as such, this Chapter constitutes a public purpose.

The City of Albion finds that the activities described in this Chapter are significantly connected to the public health, safety, security and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.

It is not the intent of this Chapter to diminish, abrogate or restrict the protections for medical use of Marihuana found in the Michigan Medical Marihuana Act or the Medical Marihuana Facilities Licensing Act.

## **22-201. DEFINITIONS, INTERPRETATION AND CONFLICTS.**

For the purposes of this Chapter:

(A) Any term defined by the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 et seq., as amended (“MMMA”) or the Medical Marihuana Facilities Licensing Act, 2016 PA 281, shall have the definition given in the MMMA, as amended, or the Medical Marihuana Facilities Licensing Act, as amended. If the definition of a word or phrase set forth in this Chapter conflicts with the definition in the MMMA or the Medical Marihuana Facilities Licensing Act, or if a term is not defined but is defined in the MMMA or the Medical Marihuana Facilities Licensing Act, then the definition in the MMMA or the Medical Marihuana Facilities Licensing Act shall apply.

(B) Any term defined by 21 USC 860(E) referenced in this Chapter shall have the definition given by 21 USC 860(E).

(C) This Ordinance shall not limit an individual’s or entity’s rights under the MMMA or the Medical Marihuana Facilities Licensing Act. The MMMA and the Medical Marihuana Facilities Licensing Act supersede this Ordinance where there is a conflict between them.

(D) All activities related to Marihuana, including those related to, a Grower Facility, Secure Transporter, Processor Facility or a Safety Compliance Facility, shall be in compliance with the rules of the Medical Marihuana Licensing Board, the Michigan Department of Licensing and Regulatory Affairs or any successor agency, the rules and regulations of the City of Albion, and the MMMA and the Medical Marihuana Facilities Licensing Act.

(E) Any use which purports to have engaged in the cultivation or processing of Marihuana into a usable form, the transportation of marihuana between licensed facilities, or the testing of Marihuana either prior to or after enactment of this Chapter but without obtaining the required licensing set forth in this Chapter, shall be deemed to not be a legally established use and therefore not entitled to legal nonconforming status under the provisions of this Chapter and/or state law. The City of Albion finds and determines that it has not heretofore authorized or licensed the existence of any Medical Marihuana Facility, as defined herein, in the City of Albion.

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

“Chapter” means this Chapter.

“City” means the City of Albion, Michigan.

“Council” or “City Council” means the City Council of the City of Albion, Michigan.

“Enclosed Locked Facility” means a closet, room, or other comparable, stationary, and fully enclosure, equipped with secured locks or other functioning security devices. 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 similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground and as defined in the MMMA.

“Grower” or “Grower Facility” means a commercial entity that cultivated, dries, trims or cures and packages Marihuana for sale to a Processor or Provisioning Center.

“License Application” refers to the requirements and procedures set forth in Sections 22-204 and 22-205.

“Marihuana Plant(s)” means any plant of the species Cannabis Sativa.

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

“Medical Marihuana Facility(ies)” means any facility, establishment and/or center that is required to be licensed under this Chapter, including a Provisioning Center, Grower, Processor, Safety Compliance Facility, and Secure Transporter.

“Ordinance” means the Ordinance adopting this Chapter.

“Person” means an individual, corporation, limited liability Company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

“Processor” or “Processor Facility” means a commercial entity that purchases Marihuana from a Grower and that extracts resin from the Marihuana or creates a Marihuana-infused product for sale and transfer in packaged form to a Provisioning Center.

“Provisioning Center” means a commercial entity that purchases Marihuana from a Grower or Processor and sells, supplies, or provides Marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning Center includes any commercial property where Marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department’s Marihuana registration process in accordance with the MMMA is not a Provisioning Center for the purposes of this Ordinance.

“Restricted/Limited Access Area” means a building, room or other area under the control of the licensee with access governed by the MMMA or other applicable state law.

“Safety Compliance Facility” means a commercial entity that receives Marihuana from a Medical Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the Marihuana to the Medical Marihuana Facility.

“Secure Transporter” means a commercial entity that stores Marihuana and transports Marihuana between Medical Marihuana Facilities for a fee.

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

“State” means the State of Michigan.

(G) Any term defined by the MMMA or the Medical Marihuana Facilities Licensing Act and not defined in this Chapter shall have the definition given in the MMMA or the Medical Marihuana Facilities Licensing Act.

## **22-203. LICENSE ALLOCATION AND ANNUAL FEES.**

(A) No Person shall operate a Grower Facility, Processor Facility, Secure Transporter, or Safety Compliance Facility in the City of Albion without first obtaining a license to do so from the City Clerk and the State of Michigan. The City Clerk, after approval from the City Council, may issue up to an aggregate total of twenty (20) marihuana facility licenses. Said licenses may be issued to any of the following types of medical marihuana facilities:

- a. Grower Facilities:
- b. Processor Facilities:
- c. Secure Transporters:
- d. Safety Compliance Facilities

The term of each license shall be one (1) year.

(B) The non-refundable application fee for a Medical Marihuana Facility license shall be established by the City Council by resolution.

(C) No license shall be issued by the City Clerk for the operation of a Provisioning Center within the City of Albion. Operation of a Provisioning Center within the City of Albion is expressly prohibited.

## **22-204. LICENSE APPLICATIONS SUBMISSION.**

(A) Application for each Medical Marihuana Facility license required by this Chapter shall be made in writing to the City Clerk, and must be approved by the City Council after receiving a recommendation submitted by the Planning Commission, and approved by the State of Michigan, prior to commencing

operation. Upon the expiration of an existing license, a licensee shall be required to reapply.

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

1. The appropriate non-refundable application fee and the refundable licensee fee in the amount per 22-203(B);

2. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information;

3. If the applicant is not an individual, the names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers of each Stakeholder/shareholder/member of the applicant, including designation of the highest ranking Stakeholder/shareholder/member as an emergency contact person and contact information for the emergency contact person, articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and a copy of the operating agreement of the applicant, if a limited liability company, a copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation or;

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

5. For the applicant, for each Stakeholder of the applicant, an affirmation under oath as to whether they are at least eighteen (18) years of age and have never been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any criminal offense under the laws of any jurisdiction, either felony or controlled substance related misdemeanor not including traffic violations, regardless of whether the offense has been expunged, pardoned, reversed on appeal or otherwise, including the date, name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration;

6. Before hiring a prospective agent or employee of the applicant, and after, the holder of a license shall conduct a background check of the prospective employee. If the background check indicated a pending charge or conviction within the past ten (10) years for a controlled substance related felony, the applicant shall not hire the prospective employee or agent without written permission from the City Clerk;

7. A signed release authorizing the Albion Department of Public Safety to perform a criminal background check to ascertain whether the applicant, each Stakeholder of the applicant, each managerial employee and employee of the applicant meet the criteria set forth in this Ordinance;

8. The name, date of birth, physical address, copy of photo identification, and email address for any managerial employee or employee of the Medical Marihuana Facility, if other than applicant;

9. An affirmation under oath as to 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 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;

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

11. Proof of an adequate premise liability and casualty insurance policy in the amount not exceeding the requirements addressed in the Medical Marihuana Facilities Licensing Act or applicable state laws, covering the Medical Marihuana Facility and naming the City of Albion as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees or subcontractors;

12. A description of the security plan for the Medical Marihuana Facility, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment;

13. A floor plan of the Medical Marihuana Facility, as well as a scale diagram illustrating the property upon which the Medical Marihuana Facility is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped accessible;

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

15. An affidavit that the transfer of Marihuana to and from Medical Marihuana Facilities shall be in compliance with the MMMA and the Medical Marihuana Facilities Licensing Act or other applicable state laws:

16. A staffing plan;

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

18. A patient education plan;

19. A business plan;

20. A location area map of the Medical Marihuana Facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject Medical Marihuana Facility's building) to the subject Medical Marihuana Facility to the closest real property comprising a public or private elementary, vocational or secondary school; and church or religious institution if recognized as a tax-exempt entity as determined by the City Assessor or County Assessor's office;



21. A facility sanitation plan to protect against any Marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;

22. Verification, with copies of actual bank statements, showing that the applicant has liquid funds in the applicant's name in the amount needed to complete the Medical Marihuana Facility, but in no event less than \$250,000.00, in immediate liquid, available funds;

23. As it relates to a Grower Facility, the following additional items shall be requested:

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

ii. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be required, and how the test results will be used;

iii. An affidavit that all operations will be conducted in conformance with the MMMA, the Medical Marihuana Facilities Licensing Act or other applicable state laws and such operations shall not be cultivated on the premises at any one time more than the permitted number of Marihuana Plants per the Michigan Medical Marihuana Act, as amended, and the Medical Marihuana Facilities Licensing Act;

iv. A chemical and pesticide storage plan that states the names of pesticides to be used in Growers and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides;

v. All Growers must be performed within an Enclosed Locked Facility which may include indoors or in an enclosed greenhouse.

(C) Upon receipt of a completed Medical Marihuana Facility application meeting the requirements of this Chapter and confirmation that the number of existing licenses does not exceed the maximum number established by resolution pursuant to Section 22-203(A), the City Clerk shall refer a copy of the application to each of the following for their review and approval: the City Attorney or his designee, the Chief of the Albion Public Safety Department or their designee, the Director of Planning and Development, and the City Finance Director or their designee. Once applications are verified by each department to be sufficiently complete and comprehensive, and no sooner, the City Clerk shall forward the applications to the Planning Commission for recommendation to the City Council.

(D) No application shall be approved unless:

1. The Public Safety Department or designee and the Office of Planning and Development or designee, have inspected the plans of the proposed location for compliance with all laws for which they are charged with enforcement;
2. The applicant, each Stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the Albion Department of Public Safety;
3. The Director of Planning and Development, has confirmed that the proposed location complies with the Zoning Ordinance;
4. The Finance Director or their designee has confirmed that the applicant and each Stakeholder of the applicant are not in default to the City;
5. The City Attorney or his designee has completed a detailed review of the Medical Marihuana Facility application for compliance with the applicable state laws and City Ordinances.

(E) If written approval is given by each individual or department identified in Subsection (a)-(e), the City Clerk shall submit the application to the Planning

Commission for recommendation to the City Council for the issuing of a license to the applicant. All licenses issued are contingent upon the State of Michigan issuing a license for the operation under state law.

(F) Licensees shall report any other change in the information required by Subsection (b) to the City Clerk within ten (10) days of the change. Fees shall be set by Council Resolution for any Stakeholder added after the original Application is filed.

## **22-205. LICENSE APPLICATIONS EVALUATION.**

(A) The City Council and Planning Commission will assess all applications referred to it by the Planning Commission pursuant to Section 4 and 5.

(B) In its application deliberations, the City Council shall assess each application in each of the following categories:

1. The applicant's experience in operating other similarly licensed businesses.
2. The applicant's general business management experience.
3. The applicant's general business reputation.
4. The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a Medical Marihuana Facility of the applicant.
5. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
6. The sources and total amount of the applicant's capitalization to operate and maintain the proposed Medical Marihuana Facility.

7. Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violation, regardless of whether the offense has been expunged, pardoned, or reversed as appealed or otherwise.

8. Past convictions of the applicant involving any of the following, but limited to:

- i. gambling;
- ii. prostitution;
- iii. weapons;
- iv. violence;
- v. tax evasion;
- vi. fraudulent activity; and
- vii. serious moral turpitude.
- viii. Felony Drug Convictions

9. A felony or misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner;

10. Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past seven (7) years;

11. Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state or local law that has been delinquent for one (1) or more years;

12. Whether the applicant has a history of noncompliance with any regulatory requirements in this State or any other jurisdiction;

13.As it related to operation of a Provisioning Center, the applicant's type of service and product that will be offered and the overall theme and atmosphere of the proposed Provisioning Center.

(C) The City Council shall assess each application with aforementioned categories Section 22-205(B)(1) through (13) and issue a license to the applicant most qualified and meets the most categories in this section.

(1) On and after February 1, 2018, the City shall accept applications for authorization to operate a medical marihuana facility within the City. Application shall be made on a City form and must be submitted to the City Clerk "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant shall receive conditional authorization to operate such medical marihuana facility within the City. Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time.

(2) Within thirty days from conditional authorization from the City or from February 1, 2018, whichever is later, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in 22-203(1) herein.

(3) If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in 22-203(1) herein.

(4) A conditionally authorized applicant shall receive full authorization from the City to operate the medical marihuana facility within the City upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the City and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the City.

(5) If a conditionally authorized applicant fails to obtain full authorization from the City within one year from the date of conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in 22-203(1) herein. The City Council shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the City Council finding good cause for the extension.

## **22-206. LICENSES GENERALLY.**

(A) To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq. Furthermore, no personal information concerning the applicant shall be submitted to the City Council.

(B) Licensees may transfer a license issued under this Chapter to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer a license location, the licensee must make a written request to the City Clerk indicating the current license location and the proposed license location. Upon receiving the written request, the City Clerk shall refer a copy of the written request to each of the following for approval: the Albion Department of Public Safety, the Director of Planning and Development, the Finance Director or its designee, and the City Council. No license transfer shall be approved unless each such individual or department gives written approval that the licensee and the proposed license location meet the standards identified in this Ordinance.

(C) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City Clerk. In order to request approval to transfer a license to a different individual or entity, the

licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Clerk shall consider the request as a new application for a license and the procedures set forth in this Ordinance and the Act shall be followed.

(D) Licensees shall report any other change in the information required by this Chapter to the City Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.

(E) Licensees shall comply with the Michigan Department of Licensing and Regulatory Affairs (LARA), Bureau of Medical Marihuana Regulation, Emergency Rules governing medical marihuana facilities and any permanent rules promulgated by LARA following the expiration of the Emergency Rules.

#### **22-207. PROVISIONING CENTERS PROHIBITED.**

(A) Provisioning Centers are expressly prohibited from operating within the City of Albion.

#### **22-208. MINIMUM OPERATIONAL STANDARDS OF GROWER FACILITY.**

The following minimum standards for a Grower Facility shall apply:

(A) The Grower Facility shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(B) The premises shall be open for inspection upon probable cause that a violation of this Chapter has occurred during the stated hours of operation and at such other times as anyone is present on the premises.

(C) Any Grower Facility shall maintain a log book and/or database indicating the number of Marihuana Plants. Each Marihuana Plant will be tagged as required by the MMMA and Medical Marihuana Facilities Licensing Act.

(D) All Marihuana shall be contained within an Enclosed Locked Facility. All operations shall be conducted within the facility so as not to be exposed to the public and all operations are expressed prohibited from being conducted outside the facility or outdoors.

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

(F) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Albion Department of Public Safety to ensure compliance with the Michigan Fire Protection Code.

(G) The dispensing of Marihuana at the Grower Facility shall be prohibited.

(H) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to: 1. Maintaining adequate personal cleanliness; 2. Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hands may have become soiled or contaminated; 3. Refraining from having direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.

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

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

(K) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the



potential for waste becoming an attractant, harborage or breeding places for pests.

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

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

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

(O) The Grower Facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.

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

(Q) Odor Control – No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. A grower or processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

a. A plan for ventilation of the medical marihuana facility that describes the ventilation systems that will be used to prevent any odor of medical marihuana off the premises of the business. For medical marihuana facilities that grow medical marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marihuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

b. Cultivated, produced, or distributed by a medical marihuana business. A medical marihuana business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marihuana business or at any adjoining use or property.

c. Sufficient measures and means of preventing smoke, odor, debris, dust, fluids and other substances from exiting a marihuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

## **22-209. MINIMUM OPERATIONAL STANDARDS OF SAFETY COMPLIANCE FACILITY.**

The following minimum standards for the Safety Compliance Facility shall apply:

(A) The Safety Compliance Facility shall comply at all times and in all circumstances with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(B) Consumption and/or use of Marihuana shall be prohibited at the facility.

(C) The premises shall be open at all times to any Michigan Medical Marihuana Licensing Board investigators, agents, auditors, or the State Police, without a warrant and without notice to the licensee, to enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:

1. To inspect and examine all premises of Medical Marihuana Facilities;
2. To inspect, examine and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fail to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
3. To inspect the person and inspect or examine personal effects present in a Medical Marihuana Facility of any holder of State Operating License while that person is present in a Medical Marihuana Facility;
4. To investigate alleged violations of the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(D) Any Safety Compliance Facility shall maintain a log book and/or database which complies with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(E) All Marihuana shall be contained within the building in an Enclosed Locked Facility in accordance with the MMMA, as amended, and Medical Marihuana Facilities Licensing Act or applicable state laws. All operations shall be conducted within the facility so as not to be exposed to the public and all operations are expressed prohibited from being conducted outside the facility or outdoors.

(F) There shall be no other accessory uses permitted within the same facility other than those associated with testing Marihuana.

(G) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty.

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

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

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

(K) Marijuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

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

## **22-210. MINIMUM OPERATIONAL STANDARDS OF PROCESSOR FACILITY.**

The following minimum standards for the Processor Facility shall apply:

(A) The Processor Facility shall comply at all times and in all circumstances with the Michigan Medical Marijuana Act, the Medical Marijuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(B) Consumption and/or use of Marijuana shall be prohibited at the Processor Facility.

(C) All activity related to the Processor Facility shall be done indoors.

(D) The premises shall be open at all times to any Michigan Medical Marijuana Licensing Board investigators, agents auditors, or the State Police, without a warrant and without notice to the licensee, to enter the premises, offices, facilities or other places of business of a licensee, if evidence of compliance or noncompliance with the MMMA and Medical Marijuana Facilities Licensing Act 21 or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:

1. To inspect and examine all premises of Medical Marihuana Facilities;
2. To inspect, examine and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fail to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
3. To inspect the person and inspect or examine personal effects present in a Medical Marihuana Facility of any holder of state operating license while that person is present in a Medical Marihuana Facility.
4. To investigate alleged violations of the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(E) Any Processor Facility shall maintain a log book and/or database which complies with the MMMA, as amended, and Medical Marihuana Facilities Licensing Act or applicable state laws.

(F) All Marihuana will be tagged as required by the MMMA, the Medical Marihuana Facilities Licensing Act or applicable state laws.

(G) All Marihuana shall be contained within an Enclosed Locked Facility in accordance with the MMMA, as amended. All operations shall be conducted within the facility so as not to be exposed to the public and all operations are expressed prohibited from being conducted outside the facility or outdoors.

(H) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing of Marihuana are located.

(I) That portion of the structure where the storage of any chemicals shall be subject to inspection and approval by the Albion Department of Public Safety to insure compliance with the Michigan Fire Protection Code.

(J) The dispensing of medical Marihuana at the Processor Facility shall be prohibited.

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

1. Maintaining adequate personal cleanliness;

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

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

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

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

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

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

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

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

(R) The Processor Facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.

(S) The Processor Facility shall produce no products other than usable Marihuana intended for human consumption.

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

(U) Odor Control – No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. A grower or processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

- i. A plan for ventilation of the medical marihuana facility that describes the ventilation systems that will be used to prevent any odor of medical marihuana off the premises of the business. For medical marihuana facilities that grow medical marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marihuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
- ii. Cultivated, produced, or distributed by a medical marihuana business. A medical marihuana business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marihuana business or at any adjoining use or property.

- iii. Sufficient measures and means of preventing smoke, odor, debris, dust, fluids and other substances from exiting a marihuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

## **22-211. MINIMUM OPERATIONAL STANDARDS FOR A SECURE TRANSPORTER**

The following minimum standards for a Secure Transporter shall apply:

- (A) A Secure Transporter shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (B) Each driver transporting marihuana shall have a valid chauffeur's license issued by the State of Michigan;
- (C) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana;
- (D) A route plan and manifest shall be carried in the transporting vehicle and presented to a law enforcement officer upon request;
- (E) The marihuana being transported shall only be transported in 1 or more sealed containers and not be accessible while in transit.
- (F) A Secure Transporter shall not bear marking or other indication that it is carrying marihuana or a marihuana-infused product.



- (G) A Secure Transporter shall be subject to administrative inspection by a law enforcement officer, including but not limited to the Albion Department of Public Safety, at any point during the transportation of marihuana in the City of Albion to determine compliance with this Ordinance and the Medical Marihuana Facilities Licensing Act.

**22-212. LOCATION OF GROWER FACILITY, SAFETY COMPLIANCE FACILITY, PROCESSOR FACILITY AND SECURE TRANSPORTER.**

- (A) No Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter shall be located within five hundred (500) feet of real property comprising a public or private elementary, licensed child care facility, vocational or secondary school.
- (B) No Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter shall be located within two hundred fifty (250) feet of real property comprising a public park. Any Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter located more than two hundred fifty (250) feet but less than five hundred (500) feet of real property comprising a public park shall be surrounded by a fence as required by city ordinance.
- (C) No Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter shall be located within two hundred fifty (250) feet of real property comprising a place of religious worship. Any Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter located more than two hundred fifty (250) feet but less than five hundred (500) feet of real property comprising a place of religious worship shall be surrounded by a fence as required by city ordinance.
- (D) All Grower Facilities shall be limited to the M-1-P, M-2, and M-2-P Zoning Districts. Safety Compliance Facilities shall be limited to the B-3, M-1-P, M-2, and M-2-P Zoning Districts. Secure Transporters shall be limited to the B-3, M-1-P, M-2, and M-2-P Zoning Districts. Processor Facilities shall be limited to B-3, M-1-P, M-2, and M-2-P Zoning Districts.

**22-213. DENIAL AND REVOCATION.**

(A) A license issued under this Chapter may be revoked after an administrative hearing at which the City Clerk determines that any grounds for revocation under Subsection (B) exists. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of the license at least five (5) days prior to the hearing, by first class mail to the address given on the License Application or any address provided pursuant to this Ordinance.

(B) A license applied for or issued under this Chapter may be denied or revoked on any of the following basis:

1. Violation of this Chapter;
2. Any conviction of or release from incarceration for a felony under the laws of this State, or any other State, or the United States, within the past five (5) years by the applicant or any Stakeholder of the applicant as measured from the date of the application or the date of becoming a Stakeholder, whichever occurs later, or while licensed under this Chapter; or any conviction of a substance-related felony by the applicant or any Stakeholder of the applicant whenever or while licensed under this Chapter;
3. Commission of fraud or misrepresentation or the making of a false statement by the applicant or any Stakeholder of the applicant while engaging in any activity for which this Chapter requires a license;
4. Sufficient evidence that the applicant(s) lack, or have failed to demonstrate the requisite professionalism and/or business experience required to assure strict adherence to this Chapter and the rules and regulations governing the Medical Marihuana Program in the State of Michigan;
5. The Medical Marihuana Facility is determined by City of Albion to have become a public nuisance;
6. The Michigan Medical Marihuana Licensing Board has denied, revoked or suspended the applicant's State License.

## **22-214. PENALTIES AND DISCIPLINE.**

(A) The City of Albion may require an applicant or holder of license of a Medical Marihuana Facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.

(B) Any Person in violation of any provision of this Chapter or any provision of a license issued under this Chapter, is responsible for a misdemeanor, punishable by a fine of up to \$500.00 plus costs of prosecution, ninety (90) days imprisonment, or both, for each violation. This section is not intended to prevent enforcement of any provision of the state law by the Albion Department of Public Safety.

(C) All fines imposed under this Chapter 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 City Clerk may temporarily suspend the Medical Marihuana Facility license without a hearing if the City Clerk finds that public safety or welfare requires emergency action. The City Clerk shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a hearing.

(E) If the City Clerk temporarily suspends a license without a hearing, the holder of the license is entitled to a hearing within thirty (30) after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice.

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

(G) In addition to any other remedy available at law, the City of Albion may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

Section 2: Validity and Severability. The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

This Ordinance shall take effect March 19, 2018 after publication.

First Reading:  
February 5, 2018

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_

Second Reading & Adoption:  
February 19, 2018

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_

\_\_\_\_\_  
Jill Domingo,  
City Clerk

\_\_\_\_\_  
Garrett Brown,  
Mayor