

**CITY OF ALBION  
ORDINANCE #2021-01**

**AN ORDINANCE TO AMEND CHAPTER 22, TO AMEND ARTICLE V, SECTIONS 22-201 TO 22-213, MEDICAL MARIHUANA FACILITIES**

**Purpose and Finding:** There has been increasing litigation across the state regarding medical marihuana facilities. One issue is the distinction between whether a local municipality can issue a "license" for a medical marihuana facility or a permit. Recent litigation indicates a leaning of the courts towards the ability of municipalities to issue permits for the facilities. As such, it is recommended that the ordinance be modified to issue permits rather than licenses. Additionally, amendments have been made to remove any sections that might encroach upon areas solely regulated by the state to avoid any potential issues of preemption, which is another issue that has been litigated recently. Approval is recommended.

THE CITY OF ALBION ORDAINS:

**Section 1.** Chapter 22, of the Codified Ordinances of the City of Albion, is hereby amended, by amending Article V, Sections 22-201 through 22-213 as follows:

**Sec. 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 article 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 article 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 the rules, regulations, and ordinances of the City of Albion

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.

*"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.

*"Permit application"* refers to the requirements and procedures set forth in sections 22-204 and 22-205.

*"Permittee"* a commercial entity holding a valid and current permit issued under 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 article.

*"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.

## **Sec. 22-202. - Permit allocation and annual fees.**

- a. No person shall operate a grower facility, processor facility, secure transporter, provisioning center, or safety compliance facility in the City of Albion without first obtaining a permit to do so from the city clerk and a license from the State of Michigan. Subject to any other condition contained in this article, the city clerk, after approval from the city council, may issue up to an aggregate total of 20 marihuana facility permits. Said permits may be issued to any of the following types of medical marihuana facilities:
  - i. Grower facilities;
  - ii. Processor facilities;
  - iii. Provisioning centers;
  - iv. Secure transporters;
  - v. Safety compliance facilities;

The term of each permit shall be one year. Not more than two of the permits described above may be issued to provisioning centers.

- b. The non-refundable application fee for a medical marihuana facility permit shall be established by the city council by resolution.
- c. Authorization to operate in the City of Albion granted in the form of a city issued license, prior to this amendatory ordinance, shall remain in effect until the expiration of the license. Subsequent to expiration of the licenses referenced in this subsection, authorization to operate in the City of Albion shall only be via city issued and approved permits.

**Sec. 22-203. - Permit applications submission.**

- a. Application for each medical marihuana facility permit 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 permit, a permittee shall be required to reapply if the permittee seeks to continue operations.
- b. An application for a medical marihuana facility permit required by this chapter shall contain the following:
  - i. The appropriate non-refundable application fee in the amount per section 22-202(b);
  - ii. 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;
  - iii. 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;
  - iv. The name and address of the proposed medical marihuana facility and any additional contact information deemed necessary by the city clerk;



- v. For the applicant, for each stakeholder of the applicant, an affirmation under oath as to whether they are at least 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. Said affirmation shall be dated no more than thirty (30) days prior to the application submission;
- vi. Before hiring a prospective agent or employee of the applicant, and after, the holder of a permit shall conduct a background check of the prospective employee. Copies of said background checks shall be provided to the City of Albion upon request. If the background check indicated a pending charge or conviction within the past ten years for a controlled substance related felony, the applicant shall not hire the prospective employee or agent without written permission from the city clerk;
- vii. A copy of an ICHAT criminal history report for the applicant, each stakeholder of the applicant, each managerial employee and employee of the applicant meeting the criteria set forth in this article;
  - 1. Said report may not be dated more than fourteen (14) days prior to the date of the application submission;
- viii. 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;
- ix. An affirmation under oath as to whether the applicant has ever applied for or has been granted any commercial license, permit, 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. Said affirmation shall be dated no more than thirty (30) days prior to the application submission;

- x. 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 a permit under this chapter along with a copy of the lease for the premises;
- xi. Proof of an adequate premise liability and casualty insurance policy in the amount not less than \$100,000.00, 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. Proof of said insurance shall be provided not later than 60 days after a state operating license is issued or renewed;
- xii. 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;
- xiii. 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;
- xiv. 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. Said affidavit shall be dated no more than thirty (30) days prior to the application submission;
- xv. 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. Said affidavit shall be dated no more than thirty (30) days prior to the application submission.
- xvi. A staffing plan. The staffing plan shall, at a minimum, include: the exact number of employee roles and positions within the facility, the required education, qualifications, and



skills for each employee in each position, and how the facility will screen each employee's background;

- xvii. Any proposed text or graphical materials to be shown on the exterior of the proposed medical marihuana facility;
- xviii. A patient education plan. The patient education plan shall, at a minimum, detail: how the facility will educate the patients who visit the facility on the different types of medical marihuana and medical marihuana derivatives, the potential benefits of medical marihuana, potential negative effects and side-effects of medical marihuana, methods of uses of medical marihuana;
- xix. A business plan. The business plan shall, at a minimum, include: business goals, methods to achieve business goals, financial projections, strategies to attain financial projections, number of employees for the facility, whether the facility intends to make an effort to hire local residents, and background on the origins of the facility;
- xx. 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;
- xxi. 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;
- xxii. Verification of the sources and total amount of capitalization to operate a proposed marihuana facility. The total amounts of required capitalization for each type of marijuana facility are as follows:
  - 1. Grower: Class A - \$150,000.00;
  - 2. Grower: Class B - \$300,000.00;
  - 3. Grower: Class C - \$500,000.00;
  - 4. Processor: \$300,000.00;
  - 5. Provisioning center: \$300,000.00;

6. Secure transporter: \$200,000.00;

7. Safety compliance facility: \$200,000.00.

xxiii. An applicant shall provide proof to the City of Albion of the capitalization amounts described in section 22-203(b)(xxii) from sources as follows:

1. Not less than twenty-five (25%) percent is in liquid assets to cover the initial expenses of operating and maintaining the proposed marijuana facility. For purposes of this subsection, liquid assets include assets easily convertible to cash, including, but not limited to, cash, CDs, 401(k), stocks and bonds, and marihuana inventory that meet all of the following conditions:
2. The marihuana inventory is possessed by an applicant who is a registered qualifying patient or registered primary caregiver or by an applicant who applies for a state operating license and possesses marihuana inventory in compliance with the Michigan Medical Marihuana Act;
3. No more than 15 ounces of usable marijuana or 72 marihuana plants may be utilized as marihuana inventory in this subsection or utilized towards the capitalization requirement;
4. Proof of the remaining capitalization to cover the initial expenses of operating and maintaining the proposed marihuana facility may include, but is not limited to additional liquid assets or equity in real property, supplies, equipment, fixtures, or any other non-liquid asset;
5. The applicant shall provide proof that there is no lien or encumbrance on the asset(s) provided as a source of capitalization;
6. The capitalization amounts and source must be validated by CPA-attested financial statements. The applicant shall disclose any of the capitalization sources that are foreign and a foreign CPA or its equivalent shall attest to the validation and a domestic CPA shall attest that foreign validation.
7. Documents provided to verify the source(s) and total amount of capitalization shall be dated no more than thirty (30) days prior to application submission.



xxiv. As it relates to a grower facility, the following additional items shall be requested:

1. 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;
2. 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;
3. 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;
4. 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;
5. All growers must be performed within an enclosed locked facility which may include indoors or in an enclosed greenhouse.

xxv. All documents submitted in support of an application for a marihuana facility permit must be legible.

- b. Upon receipt of a completed medical marihuana facility application meeting the requirements of this chapter and confirmation that the number of existing permits do not exceed the maximum number established pursuant to section 22-202(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 or their designee, 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.
- c. No application shall be approved unless:

- i. 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;
  - ii. The applicant, each stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check. The Albion Department of Public Safety may request additional background materials prior to approval;
  - iii. The director of planning and development, has confirmed that the proposed location complies with the City's zoning ordinance;
  - iv. The finance director or the designee has confirmed that the applicant and each stakeholder of the applicant are not in default to the city;
  - v. 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.
- d. If written approval is given by each individual or department identified in subsection (i)—(v), the city clerk shall submit the application to the planning commission for recommendation to the city council for the issuing of a permit to the applicant. All permits issued are contingent upon the State of Michigan issuing a license for the operation under state law.
- e. Permittees shall report any 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.

**Sec. 22-204. - Permit applications evaluation.**

- a. The city council will assess all applications referred to it by the planning commission.
- b. In its application deliberations, the city council shall assess each application in each of the following categories:
  - i. The applicant's experience in operating other similarly licensed or permitted businesses.
  - ii. The applicant's general business management experience.
  - iii. The applicant's general business reputation.
  - iv. 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.

- v. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
  - vi. The sources and total amount of the applicant's capitalization to operate and maintain the proposed medical marihuana facility.
  - vii. 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.
  - viii. Past convictions of the applicant involving any of the following, but not limited to:
    - 1. Gambling;
    - 2. Prostitution;
    - 3. Weapons;
    - 4. Violence;
    - 5. Tax evasion;
    - 6. Fraudulent activity;
    - 7. Serious moral turpitude; and
    - 8. Felony drug convictions.
  - ix. 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;
  - x. Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past seven years;
  - xi. 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 or more years;
  - xii. Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction;
  - xiii. As it relates 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 22-204(b)(i) through (xiii) and may issue a permit to the applicant that meets the categories in this section.

- i. On and after March 20, 2018 (June 7, 2018 for provisioning centers), 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.
- ii. Within 30 days from conditional authorization from the city or from, 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.
- iii. 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.
- iv. 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.
- v. 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. 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 30 days prior to cancellation, upon the reasonable discretion of the city council finding good cause for the extension.

**Sec. 22-205. - Permits generally.**

- a. To the extent permissible, all information submitted in conjunction with an application for a permit or permit 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. Permittees may transfer a permit issued under this chapter to a different location upon receiving written approval from the city clerk. In order to request approval to transfer a permit location, the permittee must make a written request to the city clerk indicating the current permit location and the proposed permit 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 or his designee, the director of planning and development or their designee, the finance director or its designee, the City Attorney, or their designee, and the city council. No permit transfer shall be approved unless each such individual or department gives written approval that the permittee and the proposed permit location meet the standards identified in this article.
- c. Permittees may transfer a permit 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 permit to a different individual or entity, the permittee must make a written request to the city clerk, indicating the current permittee and the proposed permittee. Upon receiving the written request, the city clerk shall consider the request as a new application for a permit and the procedures set forth in this article and the act shall be followed.
- d. Permittees 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 permit.

**Sec. 22-206. - Minimum operating standards for provisioning centers.**

The following minimum standards for a provisioning center shall apply.

- a. No provisioning center shall be open between the hours of 8:00 p.m. and 9:00 a.m.
- b. Consumption of marihuana shall be prohibited on the premises of a provisioning center and a sign shall be posted on the premises of each provisioning center indicating that consumption is prohibited on the premises.

- c. 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.
- d. Provisioning centers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of not less than fourteen (14) days.
- e. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, public or common areas of the provisioning center must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, no marihuana is permitted to be stored, displayed or transferred in an area accessible to the general public.
- f. All marihuana storage areas within provisioning centers must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, no marihuana is permitted to be stored in an area accessible by the general public or registered customers/patients. Marihuana may be displayed in a sales area only if permitted by the MMMA or the Medical Marihuana Facilities Licensing Act.
- g. Any usable marihuana remaining on the premises of a provisioning center while the provisioning center is not in operation shall be secured in a safe permanently affixed to the premises.
- h. A drive-through window on the premises of a provisioning center shall not be permitted.
- i. The provisioning center shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- j. No provisioning center shall be operated in a manner creating noise, dust, vibration, glare, fumes or odors detectable to normal senses beyond the boundaries of the property on which the provisioning center is operated.
- k. The permit required by this chapter shall be prominently displayed on the premises of a provision center.
- l. Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in nonconformance with state laws.
- m. All marihuana delivered to a patient shall be packaged and labeled as provided by state law.
- n. All registered patients must present both their Michigan Medical Marihuana patient/caregiver identification card and a government issued photo identification prior to entering restricted/limited areas or non-public



areas of the provisioning center, and if no restricted/limited area is required, then promptly upon entering the provisioning center.

- o. It shall be prohibited to display any signs that are inconsistent with local laws or regulations or state law.
- p. It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- q. It shall be prohibited to use the symbol or image of a marihuana leaf in any exterior building signage.
- r. No provisioning center shall allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card, regardless of whether the stakeholder was present at the time the prohibited conduct took place.
- s. Certified laboratory testing results that meet the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws must be available to all provisioning center patients/customers upon request.

**Sec. 22-207. - 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 the City of Albion Code of Ordinances.
- b. The premises shall be open for inspection to the City of Albion to ensure compliance with this Chapter 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 of those persons who enter the facility.
- d. All marihuana shall be contained within an enclosed locked facility. Unless otherwise permitted by law, 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 BOCA National Fire Prevention 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. Toilet facilities must comply with the plumbing code.
- 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 shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises. The grower shall also:



- i. Prepare 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. Ventilate the facility 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. Take 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 permittee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The permittee 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.

**Sec. 22-208. - 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 City of Albion Code of Ordinances.
- b. The premises shall be open for inspection to the City of Albion to ensure compliance with this Chapter during the stated hours of operation and at such other times as anyone is present on the premises.
- c. Consumption and/or use of marihuana shall be prohibited at the facility.
- d. Any safety compliance facility shall maintain a log book of person who enter the facility.
- 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. Unless otherwise permitted by law, 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. Marihuana 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.

**Sec. 22-209. - 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 City of Albion Code of Ordinances.
- b. The premises shall be open for inspection to the City of Albion to ensure compliance with this Chapter during the stated hours of operation and at such other times as anyone is present on the premises.
- c. Consumption and/or use of marihuana shall be prohibited at the processor facility.
- d. All activity related to the processor facility shall be done indoors.
- e. Any processor facility shall maintain a log book of all non-employees who enter the premises.
- f. Unless otherwise permitted by law, 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.
- g. 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.
- h. 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 ensure compliance with the BOCA National Fire Prevention Code.



- i. The dispensing of medical marihuana at the processor facility shall be prohibited.
- j. All persons working in direct contact with marihuana shall conform to hygienic practices while on duty, including but not limited to:
  - i. Maintaining adequate personal cleanliness;
  - ii. 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;
  - iii. 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.
- k. 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.
- l. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- m. 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.
- n. Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- o. Each processor facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair. The toilet facilities shall comply with the Michigan Plumbing Code.
- p. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- q. The processor facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- r. The processor facility shall produce no products other than usable marihuana intended for human consumption.
- s. Exterior signage or advertising identifying the facility as a processor facility shall be prohibited.
- t. 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 processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises. The Processor shall also:

- i. Prepare 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. Ventilate the facility 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. Prepare 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.

**Sec. 22-210. - 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 City of Albion Code of Ordinances.
- 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 two-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 one 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 article.

**Sec. 22-211. - Location of grower facility, safety compliance facility, processor facility, provisioning center, and secure transporter.**

- a. No grower facility, safety compliance facility, processor facility, provisioning center or secure transporter shall be located within 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, provisioning center, or secure transporter shall be located within 250 feet of real property comprising a public park. Any grower facility, safety compliance facility, processor facility or secure transporter located more than 250 feet but less than 500 feet of real property comprising a public park shall be surrounded by a fence as required by city ordinance. The fence requirement contained herein may be waived if the city deems a fence to be impractical with the location of the facility and if the facility has other adequate security measures to ensure the security of the premises and safety of the public.
- c. No grower facility, safety compliance facility, processor facility, provisioning center, or secure transporter shall be located within 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 250 feet but less than 500 feet of real property comprising a place of religious worship shall be surrounded by a fence as required by city ordinance. The fence requirement contained herein may be waived if the city deems a fence to be impractical with the location of the facility and if the facility has other adequate security measures to ensure the security of the premises and safety of the public.
- d. No provisioning center shall be located within 250 feet of any residential zoning district of the city. Any provisioning center located more than 250 feet but less than 500 feet of any residential zoning district shall be surrounded by a fence as required by ordinance. The fence requirement contained herein may be waived if the city deems a fence to be impractical with the location of the facility and if the facility has other adequate security measures to ensure the security of the premises and safety of the public.
- e. All grower facilities shall be limited to the M-1 and M-2, zoning districts. Safety compliance facilities shall be limited to the C, M-1, and M-2, zoning districts. Secure transporters shall be limited to the C, M-1, and M-2, zoning districts.

Processor facilities and provisioning centers shall be limited to C, M-1, and M-2 zoning districts.

**Sec. 22-212. - Denial and revocation.**

- a. A permit 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 permit at least five (5) days prior to the hearing, by first class mail to the address given on the permit application or any address provided pursuant to this article.
- b. A permit applied for or issued under this chapter may be denied or revoked on any of the following basis:
  - i. Violation of this chapter;
  - ii. 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 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 permitted under this chapter; or any conviction of a substance-related felony by the applicant or any stakeholder of the applicant whenever or while permitted under this chapter;
  - iii. 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 permit;
  - iv. 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;
  - v. The medical marihuana facility is determined by City of Albion to have become a public nuisance;
  - vi. The Michigan Medical Marihuana Regulatory Agency has denied, revoked or suspended the applicant's state license.

**Sec. 22-213. - Penalties and discipline.**

- a. The City of Albion may require an applicant or holder of permit 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, permit 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 civil infraction, punishable



by a fine of up to \$500.00 plus costs for each violation. This section is not intended to prevent enforcement of any provision of state or federal law by the Albion Department of Public Safety or any other law enforcement agency.

- c. All fines imposed under this chapter shall be paid within 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 permit 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 permit without a hearing, the holder of the license is entitled to a hearing within thirty (30) days 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 30 days after the date of suspension was issued, then the suspended permit 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 article.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Section 3. Repeal. Any ordinance(s) inconsistent with this ordinance are hereby repealed.

This Ordinance shall take effect on March 1, 2021 after publication.

First Reading:

Second Reading & Adoption:

January 19, 2021

February 1, 2021

Ayes 5  
Nays 0

Ayes 7  
Nays 0

Absent 2 (Lawler & Mayor  
Snyder)

Jill Domingo  
Jill Domingo,  
Clerk

Absent 0

Victoria J Snyder  
Victoria Snyder,  
Mayor