

CITY OF ALBION ORDINANCE 2018-06

AN ORDINANCE TO AMEND ARTICLE V OF CHAPTER 22, SECTION 22-204, OF THE ALBION CODE OF ORDINANCES, MEDICAL MARIHUANA FACILITIES LICENSE APPLICATIONS

FINDINGS AND PURPOSE: The Albion City Council recently approved the City's medical marihuana facility ordinance via Ordinance 2018-01. As the city has continued to evaluate applications under this ordinance, various ambiguities have arisen which need to be clarified as it relates to the amount of the liability insurance required for each type of facility as well as the necessary financing required for applicants. This amendment amends the current ordinance to more closely reflect the language from the state administrative rules regarding liability insurance and requisite financing for proposed facilities and applicants. Given the number of pending and incoming applications for facilities, it is recommended that this ordinance be deemed an emergency and be given immediate effect.

THAT THE CODE OF ORDINANCES, CITY OF ALBION, MICHIGAN, IS HEREBY AMENDED BY AMENDING ARTICLE V TO CHAPTER 22, Section 22-204 AS FOLLOWS:

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 in the amount per 22-202(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 less than one hundred thousand (\$100,000.00) dollars, 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 sixty (60) days after a state operating license is issued or renewed;

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 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:

- a. Grower: Class A - \$150,000.00;
- b. Grower: Class B - \$300,000.00;
- c. Grower: Class C - \$500,000.00;
- d. Processor: \$300,000.00;
- e. Provisioning Center: \$300,000.00;
- f. Secure Transporter: \$200,000.00;
- g. Safety Compliance Facility: \$200,000.00;

23. An applicant shall provide proof to the City of Albion of the capitalization amounts described in 22-204(B)(22) from sources as follows:

- a. 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:
 - i. 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;
 - ii. No more than fifteen (15) ounces of usable marijuana or (72) marihuana plants may be utilized as marihuana inventory in this

subsection or utilized towards the capitalization requirement;

- b. 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;
- c. The applicant shall provide proof that there is no lien or encumbrance on the asset(s) provide as a source of capitalization;
- d. 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.

24. 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 22-202(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, 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.

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

Repealer: All other ordinances in conflict or inconsistent with this ordinance are hereby repealed.

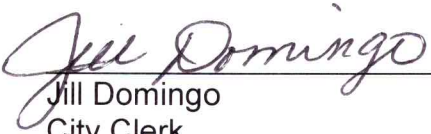
Severability: The provisions of this Ordinance are deemed to be severable and should any provision, section, or party thereof be declared to be invalid, the remainder of the ordinances shall continue in full force and effect.

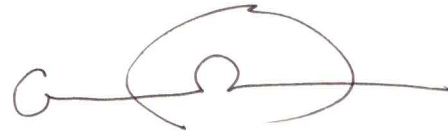
Emergency: The enactment of this ordinance is deemed to be an emergency and necessary for the health, safety, and welfare of the citizens of the City of Albion;

This Ordinance shall take immediate effect.

First Reading:
July 16, 2018

Ayes 7
Nays 0
Absent 0


Jill Domingo
City Clerk



Garrett Brown,
Mayor