

**CITY OF ALBION
ORDINANCE #2021-07**

AN ORDINANCE TO AMEND CHAPTER 22, ARTICLE VI, TO AMEND
SECTIONS 22-221, 22-222, 22-224, 22-226, 22-227, AND 22-228.

Purpose and Finding:

As the council is aware, the City Council previously opted to reduce the total number of licenses available within the City for Adult Use Marihuana Establishments (Grow and Processing) from 20 to 5. Pursuant to Council's direction, this amendment effectively allows an unlimited number of adult use marihuana licenses, but requires them to be located solely within overlay districts formed in the M-1 and M-2 zoning districts (the industrial park). This effectively limits the number of physical facilities by virtue of geography. Approval is recommended.

THE CITY OF ALBION ORDAINS:

Section 1. Chapter 22, Article VI, Sections 22-221, 22-222, 22-224, 22-225, 22-226, and 22-227 of the Codified Ordinances of the City of Albion, are hereby amended as follows:

ARTICLE VI: ADULT USE MARIHUANA FACILITIES

Sec. 22-221. Definitions.

The words and phrases used in this Article shall have the following meanings:

1. *The Act* shall mean the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq.
2. *Department* means the Michigan Department of Licensing and Regulatory Affairs.
3. Designated consumption establishment means a commercial space that is licensed and where it is authorized for adults 21 years of age and older to consume marihuana products.
4. *Industrial hemp* means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of

delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

5. *Marihuana* means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:
 - a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
 - b. Industrial hemp;
 - c. Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.
6. *Marihuana concentrate* means the resin extracted from any part of the plant of the genus cannabis.
7. *Marihuana establishment* means a marihuana grower or excess grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, designated consumption establishment or any other type of marihuana-related business licensed by the department.
8. *Marihuana grower* means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments. Marihuana grower license types are:
 - a. Class A – not more than 100 marihuana plants;
 - b. Class B – not more than 500 marihuana plants;
 - c. Class C – not more than 2000 marihuana plants;
9. *Marihuana microbusiness* means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

10. *Marihuana processor* means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
11. *Marihuana retailer* means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
12. *Marihuana secure transporter* means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
13. *Marihuana safety compliance facility* means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
14. *Municipal license* means a license issued pursuant to section 6 of the Act (MCL 333.27956) that allows a person to operate a marihuana establishment in the City of Albion.
15. *Municipality* means the City of Albion.
16. *Overlay District* means the meaning set forth in the City of Ordinance Zoning Ordinance applicable to Marihuana Establishments.
17. *Person* means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
18. *Process or Processing* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.
19. *Provisional License* means a certification provided by the City of Albion to an applicant for a municipal license. This is issued prior to a municipal license, is accompanied by an attestation form, and allows the applicant to finalize the application for a state license.
20. *State rules* means the Emergency Rules, or the Final Rules hereafter promulgated, by the Department.
21. *State license* means a license issued by the Department that allows a person to operate a marihuana establishment.
22. *Temporary marihuana event* means an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location

indicated on the municipal license during the dates indicated on the municipal license.

Sec. 22-222. Authorized Marihuana Establishments

The city hereby authorizes, subject to the issuance of a municipal license by the City, the following types of marihuana establishments within the boundaries of the city, pursuant to section 6.1 of the Act:

- a. Class A Marihuana Grower
- b. Class B Marihuana Grower
- c. Class C Marihuana Grower
- d. Marihuana Processor

Subject to any other condition contained in this article, the City Clerk, after approval from the City Council, may issue marihuana establishment licenses for the establishments listed in this Section.

Sec. 22-224: Permitted Locations

- a. Marihuana Growers shall be limited to the designated overlay district(s) contained within the M-1 and M-2 zoning districts;
- b. Marihuana Processors shall be limited to the designated overlay districts contained within the M-1 and M-2 zoning Districts.

Sec. 22-225: Facility Distance Requirements

- a. No marihuana grower facility or marihuana processor facility, 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 marihuana grower facility or marihuana processor facility shall be located within 250 feet of real property comprising a public park. Any marihuana grower facility or marihuana processor facility 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 marihuana grower facility, marihuana processor facility shall be located within 250 feet of real property comprising a place of religious worship. Any marihuana grower facility or marihuana processor facility 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.

22-226: Provisional License; Municipal License to Operate Marihuana Establishment

1. An application for a municipal license to operate a marihuana establishment shall be reviewed by the following City Departments:
 - a. Public Safety;
 - b. Planning & Zoning;
 - c. Finance;
 - d. City Attorney;

An application for a municipal license to operate a marihuana establishment shall not be submitted to the City Council for approval until all of the departments listed above have recommended approval of the application.

2. If approved by the City Council, the clerk shall issue the applicant a provisional license, which does not convey the ability to operate a marihuana establishment.
3. A provisional license will be accompanied by a completed attestation form, in compliance with the Act and the state rules, specifically the Emergency Rules of July 3, 2019, Rule 8, Section 1(e)(iii).
4. At the time the clerk receives verification that the applicant has received a valid state license, the clerk will provide the applicant with a municipal license, which conveys the ability to operate a marihuana establishment.
5. Municipal licenses will be issued for the term of one year. Municipal licenses may be renewed by the City Council after receipt of a complete renewal application and renewal fee for any marihuana establishment in good standing. A departmental review of a renewal application shall be required. Successive renewals will each be valid for one year.
6. Maintaining a valid state license is a condition for the maintenance of a municipal license under this ordinance and continued operation of a marihuana establishment. A provisional license does not authorize operations until a final license is issued, which will only occur upon issuance of the appropriate state license.

7. A municipal license to operate a marihuana establishment shall not be issued to any individual or entity who is in default to the City.
8. 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 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 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 article and the city council approves the transfer.
9. Any license issued under this Section shall be non-transferrable to another entity without city council approval. A request for a transfer under this subsection shall be treated as a new application and the potential transferee of the municipal license shall be required to apply for a license, pay the applicable fee, and meet all of the criteria required of a licensee under this Article.
10. Nothing in this Article shall be deemed to create or vest a property right or interest in a municipal license issued pursuant to this Article. A municipal license issued pursuant to this Article is a revokable privilege granted by the City.

22-227: Municipal License Application

1. Every applicant for a municipal license to operate a marihuana establishment shall file an application in the office of the City Clerk on a form provided by the City. The Application shall include:
 - a. The appropriate nonrefundable municipal license application fee, as established by resolution;
 - b. If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;

- c. If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each person holding ownership interest in the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;
- d. For the applicant, for each person holding an ownership interest in 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;
- e. A copy of an ICHAT criminal history report for the applicant, each partner/shareholder/member of the applicant, each managerial employee and employee of the applicant meeting the criteria set forth in this article;
 - i. Said report may not be dated more than fourteen (14) days prior to the date of the application submission;
 - ii. If an applicant, stakeholder, managerial employee, or employee of the applicant is aware that they may have a criminal history in a jurisdiction outside of the State of Michigan, documentation reflecting that criminal history must be submitted as part of the application.
Documentation shall be presented in the form of a criminal history report issued by a governmental agency or a copy of judgment of sentence or conviction from a court.
- f. The name and address of the proposed marihuana establishment;

- g. A notice of prequalification status approval from the Department, as defined under the state rules, specifically the Emergency Rules of July 3, 2019, Rule 6, Section 2;
- h. A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (as measured from the parcel lines of the individual properties) to the closest real property comprising a public or private elementary, vocational or secondary school, city park, and places of religious worship;
- i. A description of the security plan for the 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;
- j. A floor plan of the marihuana establishment, as well as a scale diagram illustrating the property upon which the marihuana establishment is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped accessible;
- k. 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;
- l. 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;
- m. Any proposed text or graphical materials to be shown on the exterior of the proposed marihuana establishment;
- n. 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;

- o. An affidavit that neither the applicant nor person holding an ownership interest in the applicant is in default to the city. Specifically, that the applicant or person holding an ownership interest in the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligations to the city;
 - p. Proof of an adequate premise liability and casualty insurance policy in the amount not less than \$100,000.00, covering the marihuana establishment 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 person(s) holding an ownership interest in the applicant, 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;
 - q. One of the following: (a) proof of ownership of the entire premises wherein the marihuana establishment 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;
 - r. A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the city, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its stakeholders and agents of those laws, rules, and regulations; and
 - s. A fully executed City of Albion Marihuana Facility Terms and Conditions Form;
 - t. Any other information which may be required by the clerk.
2. All documents submitted in support of an application for a marihuana establishment license must be legible.

3. Municipal license holders shall report any other change in the information required by this ordinance 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.
4. If an application is denied, the clerk shall issue a written notice of denial to the applicant. All communications will be sent by first class mail to the address for the applicant provided on the application.
5. Upon receipt of a completed marihuana establishment application meeting the requirements of this ordinance, the clerk shall refer a copy of the application to the departments specified in Section 22-226 of this Ordinance.
6. A municipal license will not be granted until the application materials have been reviewed and approved by the city departments listed in Section 22-226, or their designees, for compliance with all sections of this Article and all necessary inspections have been made.
7. A municipal license will not be granted until the Albion Department of Public Safety reviews the affidavits, ICHAT reports, and any out of state criminal histories submitted by the applicant.
8. A municipal license will not be granted until the Finance Department verifies that the applicant and its stakeholders are not in default to the city.
9. Municipal license holders shall report any other change in the information required by this ordinance 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.

22-228: License Applications Evaluation

- (1) The City will assess all applications and shall assess each application in each of the following categories:
 - a. The applicant's experience in operating other similarly licensed businesses;
 - b. The applicant's general business management experience;
 - c. The applicant's general business reputation;
 - d. The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a Marihuana Establishment of the applicant;

- e. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;
- f. The sources and total amount of the applicant's capitalization to operate and maintain the proposed Marihuana Establishment;
- g. Whether the applicant, any partner/shareholder/member, or any known employees have 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 violations, regardless of whether the offense has been expunged, pardoned, or reversed as appealed or otherwise;
- h. Past convictions of the applicant, partners/shareholders/members, and any known employees, involving any of the following, but not limited to:
 - i. Gambling;
 - ii. Prostitution;
 - iii. Weapons;
 - iv. Violence;
 - v. Tax evasion;
 - vi. Fraudulent activity;
 - vii. Serious moral turpitude; and
 - viii. Felony controlled substance convictions.
- i. 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;
- j. Whether the applicant has a history of violations of any local ordinance, including, but not limited to: zoning or rental registration.
- k. Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past seven (7) years;
- l. Whether the applicant has been served with a complaint or other notice filed with any public body regarding non-payment of any tax required under federal, state or local law that has been delinquent for one (1) or more years;

- m. Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction;
- (2) The City shall assess each application with the aforementioned categories and may issue a license to the applicants meeting the criteria under this section.
- (3) Application shall be made on a City form and must be submitted to the City Clerk. Once the clerk receives a complete application, including the initial annual Marihuana Establishment fee, the application shall be time and date stamped. Complete applications shall be reviewed and considered for authorization in consecutive time and date stamped order. Upon consideration and approval by the City Council, if the facility type authorization is available, then the applicant shall receive conditional authorization to operate such Marihuana Establishment within the City. Any applicant may withdraw their submission by written notice to the clerk at any time.
- (4) In the event the City identifies any deficiency in an application for a license under this Article or if the City otherwise requires additional information, the clerk shall provide written notice to the license applicant detailing the deficiencies or additional information required. The license applicant shall have ten (10) business days, from the date of the Clerk's written notification, to cure the deficiencies and/or provide the requested information to the City. In the event a license applicant fails to cure the deficiencies and/or provide the requested information to the City, the license application shall be deemed abandoned and withdrawn by the applicant and the application fee shall be forfeited to the City.
- (5) Within thirty (30) days from conditional authorization from the City, 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 a full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the clerk.
- (6) 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.
- (7) A conditionally authorized applicant shall receive full authorization from the City to operate the Marihuana Establishment within the City upon the applicant providing to the clerk proof that the applicant has received a state operating license for the Marihuana Establishment in the City, and that 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.

- (8) If a conditionally authorized applicant fails to obtain full authorization from the City within one (1) year from the date of conditional authorization, then such conditional authorization shall be canceled by the clerk. The City Council shall have authority to extend the deadline to obtain full authorization for up to an additional six (6) months on written request of the applicant, within thirty (30) days prior to cancellation, upon the reasonable discretion of the City Council finding good cause for the extension.

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. Repealer Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

This Ordinance shall take effect on November 20, 2021 after publication.

First Reading:

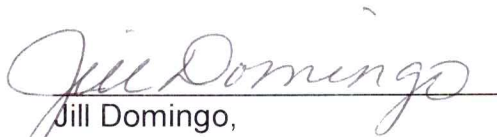
Second Reading & Adoption:

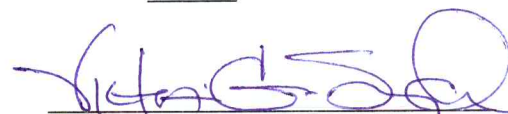
September 7, 2021

September 20, 2021

Ayes 6
Nays 1 (Williamson)
Absent 0

Ayes 5
Nays 1 (Williamson)
Absent 0


Jill Domingo,
Clerk


Victoria Garcia-Snyder,
Mayor.