

## **CITY OF ALBION ORDINANCE 2018-05**

### **AN ORDINANCE TO AMEND ARTICLE V OF CHAPTER 22, SECTION 22-205, OF THE ALBION CODE OF ORDINANCES, MEDICAL MARIHUANA FACILITIES LICENSE APPLICATIONS EVALUATION**

FINDINGS AND PURPOSE: The Albion City Council recently approved the City's medical marihuana facility ordinance via Ordinance 2018-01. Initially the City Council approved only 4 of the 5 medical marihuana facilities authorized by the state. Subsequent thereto, the City Council authorized provisioning centers be added to the list of authorized medical marihuana that may operate with the City of Albion. The amendment allows for the addition of said provisioning centers.

THAT THE CODE OF ORDINANCES, CITY OF ALBION, MICHIGAN, IS HEREBY AMENDED BY AMENDING ARTICLE V TO CHAPTER 22, Sections 22-203 through 22-205, Section 22-207, and Section 22-212, and by adding Section 22-202, AS FOLLOWS:

#### **22-203. LICENSE 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 license to do so from the City Clerk and the State of Michigan. Subject to any other condition contained in this Ordinance, the City Clerk, after approval from the City Council, may issue up to an aggregate total of twenty (20) marihuana facility licenses. Said licenses may be issued to any of the following types of medical marihuana facilities:

- a. Grower Facilities:
- b. Processor Facilities:
- c. Provisioning Centers;
- d. Secure Transporters:
- e. Safety Compliance Facilities

The term of each license shall be one (1) year. Not more than two (2) of the licenses described above may be issued to provisioning centers

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

#### **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 22-203(B);
2. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information;
3. If the applicant is not an individual, the names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers of each Stakeholder/shareholder/member of the applicant, including designation of the highest ranking Stakeholder/shareholder/member as an emergency contact person and contact information for the emergency contact person, articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and a copy of the operating agreement of the applicant, if a limited liability company, a copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation or;
4. The name and address of the proposed Medical Marihuana Facility and any additional contact information deemed necessary by the City Clerk;
5. For the applicant, for each Stakeholder of the applicant, an affirmation under oath as to whether they are at least eighteen (18) years of age and have never been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any criminal offense under the laws of any jurisdiction, either felony or controlled substance related misdemeanor not including traffic violations, regardless of whether the offense has been expunged, pardoned, reversed on appeal or otherwise, including the date, name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration;
6. Before hiring a prospective agent or employee of the applicant, and after, the holder of a license shall conduct a background check of the prospective employee. If the background check indicated a pending charge or conviction within the past ten (10) years for a controlled substance related felony, the



applicant shall not hire the prospective employee or agent without written permission from the City Clerk;

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

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

9. An affirmation under oath as to whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;

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

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

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

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

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

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

16. A staffing plan;

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

18. A patient education plan;

19. A business plan;

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

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

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

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

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

ii. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved



Safety Compliance Facility will be selected, what type of testing will be required, and how the test results will be used;

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

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

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

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

(D) No application shall be approved unless:

1. The Public Safety Department or designee and the Office of Planning and Development or designee, have inspected the plans of the proposed location for compliance with all laws for which they are charged with enforcement;

2. The applicant, each Stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the Albion Department of Public Safety;

3. The Director of Planning and Development, has confirmed that the proposed location complies with the Zoning Ordinance;

4. The Finance Director or their designee has confirmed that the applicant and each Stakeholder of the applicant are not in default to the City;

5. The City Attorney or his designee has completed a detailed review of the Medical Marihuana Facility application for compliance with the applicable state laws and City Ordinances.

(E) If written approval is given by each individual or department identified in Subsection (a)-(e), the City Clerk shall submit the application to the Planning Commission for recommendation to the City Council for the issuing of a license to the applicant. All licenses issued are contingent upon the State of Michigan issuing a license for the operation under state law.

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

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

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

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

1. The applicant's experience in operating other similarly licensed businesses.
2. The applicant's general business management experience.
3. The applicant's general business reputation.
4. The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a Medical Marihuana Facility of the applicant.
5. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
6. The sources and total amount of the applicant's capitalization to operate and maintain the proposed Medical Marihuana Facility.
7. Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violation,



regardless of whether the offense has been expunged, pardoned, or reversed as appealed or otherwise.

8. Past convictions of the applicant involving any of the following, but not limited to:

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

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

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

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

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

13. As it 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 22-205(B)(1) through (13) and issue a license to the applicant most qualified and meets the most categories in this section.

(1) On and after March 20, 2018 (June 7, 2018 for Provisioning Centers), the City shall accept applications for authorization to operate a medical marijuana 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 marijuana 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 marijuana facility within the City.

Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time.

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

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

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

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

## **22-207. 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) 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 fourteen (14) days.
- (D) 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.
- (E) 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.
- (F) 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.
- (G) A drive-through window on the premises of a Provisioning Center shall not be permitted.
- (H) The Provisioning Center shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- (I) 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.
- (J) The license required by this Chapter shall be prominently displayed on the premises of a Provision Center.
- (K) 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.

- (L) All Marihuana delivered to a patient shall be packaged and labeled as provided by state law.
- (M) 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.
- (N) The premises shall be open at all times to any Michigan Medical Marihuana Licensing Board investigators, agents, auditors, the State Police, or Albion Department of Public Safety Officers without a warrant and without notice to the holder of the license, to enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:
- (1) To inspect and examine all premises of the Medical Marihuana Facility;
  - (2) To inspect, examine and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
  - (3) To inspect the person, and inspect or examine personal effects present in a Medical Marihuana Facility, of any holder of state operating license while that person is present in a Medical Marihuana Facility;
  - (4) To investigate alleged violations of the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.
- (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.

**22-212. 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 five hundred (500) feet of real property comprising a public or private elementary, licensed child care facility, vocational or secondary school.
- (B) No Grower Facility, Safety Compliance Facility, Processor Facility, Provisioning Center, or Secure Transporter shall be located within two hundred fifty (250) feet of real property comprising a public park. Any Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter located more than two hundred fifty (250) feet but less than five hundred (500) feet of real property comprising a public park shall be surrounded by a fence as required by city ordinance. 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 two hundred fifty (250) feet of real property comprising a place of religious worship. Any Grower Facility, Safety Compliance Facility, Processor Facility or Secure Transporter located more than two hundred fifty (250) feet but less than five hundred (500) feet of real property comprising a place of religious worship shall be surrounded by a fence as required by city ordinance. 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 two hundred fifty (250) feet of any residential zoning district of the City. Any Provisioning Center located more than two hundred fifty (250) feet but less than five hundred 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.

All Grower Facilities shall be limited to the M-1-P, M-2, and M-2-P Zoning Districts. Safety Compliance Facilities shall be limited to the B-3, M-1-P, M-2, and M-2-P Zoning Districts. Secure Transporters shall be limited to the B-3, M-1-P, M-2, and M-2-P Zoning Districts. Processor Facilities and Provisioning Centers shall be limited to B-3, M-1-P, M-2, and M-2-P Zoning Districts.

Renumbering: The following Ordinances shall be renumbered as follows:

- (A) 22-203 shall be 22-202;
- (B) 22-204 shall be 22-203;
- (C) 22-205 shall be 22-204;
- (D) 22-206 shall be 22-205;
- (E) 22-207 shall be 22-206;
- (F) 22-208 shall be 22-207;
- (G) 22-209 shall be 22-208;
- (H) 22-210 shall be 22-209;
- (I) 22-211 shall be 22-210;
- (J) 22-212 shall be 22-211;

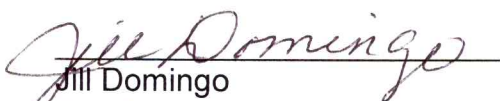
Repealer: All other ordinances in conflict or inconsistent with this ordinance are hereby repealed.

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.

This Ordinance shall take effect after publication on June 7, 2018.

First Reading:  
April 23, 2018

Ayes 7  
Nays 0  
Absent 0

  
Jill Domingo  
City Clerk

Second Reading:  
May 7, 2018

Ayes 5  
Nays 0  
Absent 2

  
Garrett Brown,  
Mayor