

ALMENA TOWNSHIP
VAN BUREN COUNTY, MICHIGAN

COPY

ORDINANCE AUTHORIZING AND PERMITTING
ADULT-USE MARIHUANA ESTABLISHMENTS

ORDINANCE NO. 2022-04

At a regular meeting of the Township Board of Almena Township, Van Buren County, Michigan, held at the Almena Township Hall on September 21, 2022, at 6:30 p.m., Township Board Member Moffat moved to adopt the following Ordinance, which motion was seconded by Township Board Member Toman:

An Ordinance repealing and replacing Almena Township Ordinance No. 0-2019-02 Recreational Marihuana Establishments by implementing the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, which authorizes the licensing and regulation of Marihuana Establishments and affords the Township the option whether or not to allow Marihuana Establishments; to regulate Marihuana Establishments by requiring a Permit and compliance with requirements as provided in this Ordinance, in order to maintain the public health, safety and welfare of the residents and visitors to the Township.

THE TOWNSHIP OF ALMENA ORDAINS:

SECTION 1. DEFINITIONS. The following words and phrases shall have the following definitions when used in this Ordinance:

1. “*Application*” means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the “*Applicant*.”
2. “*Co-location*” means the operation of separate Establishments or separate MMFLA Facilities at the same location, Permitted Premises, or Permitted Property.
3. “*Clerk*” shall mean the Clerk of Almena Township or his/her designee. The Township Board may authorize another individual to exercise the duties given to the Clerk under this Ordinance. If there is no Clerk and no other Board authorized individual, then the Supervisor shall exercise the duties under this Ordinance.
4. “*Cultivate*” means that term as is defined in Initiated Act 1 of 2018, MCL 333.27951, et seq, Michigan Regulation and Taxation of Marihuana Act (“MRTMA”).
5. “*Department*” means the Michigan State Department of Licensing and Regulatory Affairs or any designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Marihuana Establishment.

6. “*License*” means a current and valid License for a Marihuana Establishment issued by the State of Michigan.
7. “*Licensee*” means a Person holding a current and valid Michigan License for a Marihuana Establishment.
8. “*Marihuana*” means that term as defined Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106 and as defined in the MRTMA.
9. “*Marihuana Facility*” means that term as is defined in the Medical Marihuana Facilities Licensing Act (“MMFLA”), MCL 333.27101, et seq.
10. “*Marihuana Establishment*” or “*Establishment*” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, designated consumption establishment, excess marihuana grower, marihuana event organizer, temporary marihuana event license, or any other type of marihuana-related business Licensed by the Department.
 - a. “*Marihuana grower*,” as that term is defined in the MRTMA; and
 - b. “*Marihuana microbusiness*,” as that term is defined in the MRTMA; and
 - c. “*Marihuana processor*,” as that term is defined in the MRTMA; and
 - d. “*Marihuana retailer*,” as that term is defined in the MRTMA; and
 - e. “*Marihuana secure transporter*,” as that term is defined in the MRTMA; and
 - f. “*Marihuana safety compliance facility*,” as that term is defined in the MRTMA; and
 - g. “*Designated consumption establishment*,” as that term is defined by the Department or as may be defined in the MRTMA; and
 - h. “*Excess marihuana grower*,” as that term is defined by the Department or as may be defined in the MRTMA; and
 - i. “*Marihuana event organizer*,” as that term is defined by the Department or as may be defined in the MRTMA; and
 - j. “*Temporary marihuana event*” as that term is defined by the Department or as may be defined in the MRTMA.
11. “*Permit*” means an approval issued by the Township pursuant to the MRTMA that allows a Person to operate an Establishment in the Township under this Ordinance, which Permit may be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

12. “*Permit Holder*” means the Person that holds a current and valid Permit issued under this Ordinance.
13. “*Permitted Premises*” means the particular building or buildings within which the Permit Holder will be authorized to conduct the Establishment’s activities pursuant to the Permit.
14. “*Permitted Property*” means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.
15. “*Person*” means a natural person, company, partnership, trust, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.
16. “*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.
17. “*Public Place*” means any area to which the public is invited or generally permitted in the usual course of business.
18. “*Reasonably Available Odor Control Technology (“RAOCT”)*” means an odor control technology that limits odor from a particular source or source category within the limits of Township ordinances by the application of control technology that is reasonably available considering technological and economic feasibility. RAOCT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls.
19. “*Township*” means Almena Township, a township located in Van Buren County, Michigan.

SECTION 2. PERMIT REQUIRED; NUMBER OF PERMITS AVAILABLE; ELIGIBILITY; GENERAL PROVISIONS.

1. The Township hereby authorizes the operation of the following types of Marihuana Establishments, subject to the number of available Permits issued in this Section:
 - a. Marihuana Growers, Class B - cultivation of not more than 500 marihuana plants; and
 - b. Marihuana Microbusinesses; and
 - c. Marihuana Processors; and
 - d. Marihuana Retailers; and

- e. Marihuana Safety Compliance Facilities; and
 - f. Marihuana Secure Transporters.
 - g. Marihuana Microbusiness
2. The number of Marihuana Establishment Permits in effect at any time shall be set by the Township Board via Resolution. The initial number of available Permits are as follows:
- a. Marihuana Grower Permits, Class A: Zero
 - b. Marihuana Grower Permits, Class B: **TWO (2)**
 - c. Marihuana Grower Permits, Class C: Zero
 - d. Marihuana Processor Permits: Zero
 - e. Marihuana Safety Compliance Facility Permits: Zero
 - f. Marihuana Secure Transporter Permits: Zero
 - g. Marihuana Retailer Permits: **TWO (2)**
 - h. Marihuana Microbusiness: **ONE (1)**
 - i. Excess Marihuana Grower Permits: Zero
 - j. Designated Consumption Establishment: Zero
 - k. Marihuana Event Organizer: Zero
 - l. Temporary Marihuana Event: Zero

The Township Board may review and amend the above maximums by resolution annually or as it determines to be advisable. Such revisions shall not be the basis for termination or non-renewal of a Permit previously issued.

3. It shall be unlawful for any person to engage in, or be issued a Permit for, the operation of the following Marihuana Establishments:
- a. Marihuana Growers, Class A
 - b. Marihuana Growers, Class C
 - c. Excess Marihuana Grower Permits
 - d. Designated Consumption Establishment
 - e. Marihuana Event Organizer

f. Temporary Marihuana Event

4. No Permitted Property shall possess more than 500 growing plants.
5. No Person shall operate a Marihuana Establishment at any time and at any location within the Township unless an effective Permit for a Marihuana Establishment for that Person at that location has been issued under this Ordinance.
6. Marihuana Establishments shall operate only as expressly allowed under this Ordinance. All Permit approvals under this Ordinance are contingent upon the issuance of a Special Land Use Permit under the Township Zoning Ordinance.
7. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable state or local laws, regulations, codes, or ordinances. All Permit Holders must secure any building, mechanical, plumbing, electrical and any other construction permit as required by the building official.
8. At the time of Application, each Applicant shall pay applicable fees, including Application fees, annual fees, renewal fees, transfer fees, and inspection fees for Permits to the Township to defray the costs incurred by the Township for inspection, administration, review, oversight, and enforcement of the local regulations regarding Marihuana Establishments. The application fee shall be \$5,000.00. The Township Board shall by resolution set all remaining fees in an amount not to exceed any limitations imposed by Michigan law.
9. A Permit or Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Permit Holder, and shall remain valid one year immediately following its approval.
10. Each year, any pending Applications for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered. Renewal applications are not subject to competitive review.
11. It is always the sole and exclusive responsibility of each Permit Holder, Applicant, owner, partner, director, officer, or manager at all times during the Application period and during its operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or Township Permit.
12. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application and all required fees under this Ordinance and other applicable Ordinances and the transfer has been authorized under this Ordinance by the Township Board. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property, except for a change in location requested as part of a renewal application.
13. No change in control of a business organization or any attempted transfer, sale, or other conveyance of an interest of more than 1% in a Permit, whether through a single transaction

or the combined sum of multiple transactions, is permitted unless the transferee has submitted an appropriate Application and all required fees under this Ordinance.

14. The Permit issued under this Ordinance shall at all times be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
15. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and, employees, for any state, federal or local fire, emergency, or law enforcement agency to conduct random and unannounced examinations of the Establishment and all records, materials, and property in that Establishment at any time to ensure compliance with this Ordinance, state law, any other local regulations, and the Permit.
16. A Permit Holder may not engage in any other Marihuana Establishment in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Permit.
17. Any applicant for a Marihuana Establishment must be prequalified by the Department at the time of application and must submit an official prequalification statement from the Department with its application papers.

SECTION 3. OTHER LAWS AND ORDINANCES. In addition to the terms of this Ordinance, any Marihuana Establishment shall comply with all laws, regulations and Ordinances, including without limitation the Township Zoning Ordinance and the MRTMA to the extent such ordinances do not create obligations in conflict with this Ordinance.

SECTION 4. APPLICATION FOR, RENEWAL OF, AND TRANSFER OF PERMITS.

1. **Application Process.** The Township shall only accept Applications as designated by the Township Board by resolution. No Applications shall be accepted by the Township unless the Township Board has issued procedures and standards for the receipt and review of Applications as set forth in this Ordinance, and specifically approved of the acceptance of such Applications. The dates, times, and places to accept Applications shall be determined by the Township Board and made available publicly prior to the receipt of Applications.
2. **Application Contents.** An Application must be submitted for each and every single Permit or Establishment type which may be operated within the Township. An Application for a Permit for an Establishment shall be submitted to the office or person designated in the procedures and standards. In addition to required Application material otherwise identified by this Ordinance, all Applicants must submit an Application that contains the following information, at a minimum:
 - a. The name, address, phone number and e-mail address of the Applicant or Permit Holder and the proposed Marihuana Establishment;

- b. The names, home addresses and personal phone numbers for all owners, partners, directors, and officers of the Permit Holder and the Marihuana Establishment;
- c. One (1) copy of all the following:
 - 1) All documentation showing the Applicant's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Marihuana Establishment.
 - 2) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including bylaws and amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan, and a certificate of good standing.
 - 3) A valid, unexpired driver's license or state issued ID for all owners, directors, and officers of the proposed Establishment.
 - 4) Evidence of a valid sales tax license for the Applicant if such a license is required by state law or local regulations.
 - 5) Application for Sign Permit, if any sign is proposed.
 - 6) Non-refundable Application fee.
 - 7) Business and Operations Plan, showing in detail the Marihuana Establishment's proposed plan of operation, including without limitation, the following:
 - i. A description of the type of Establishment(s) proposed and the anticipated or actual number of employees.
 - ii. A security plan meeting the requirements of this Ordinance, which shall include a general description of the security systems(s), current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.
 - iii. A description by category of all products proposed to be sold.
 - iv. All Material Safety Data Sheets for any nutrients, pesticides, and other chemicals proposed for use in the Marihuana Establishment.

- v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that operation of the Establishment shall not create a public nuisance which unreasonably disturbs or annoys the quiet, comfort, or repose of a reasonable person of normal sensitivities in the vicinity and that the Establishment will comply with operational restrictions regarding odor.
 - vi. A plan for the disposal of Marihuana and related byproducts that will be used at the Establishment.
- 8) An official statement issued by the Department that the Applicant has successfully completed prequalification for a License.
 - 9) Site plan and interior floor plan of the Permitted Premises and the Permitted Property lawfully signed and sealed by a Michigan registered architect, surveyor or professional engineer.
 - 10) Identify any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Establishment.
 - 11) Whether any Applicant, owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant has ever applied for or been granted, denied, restricted, suspended, revoked, or not renewed any commercial License, Permit, or certificate issued by a licensing authority in Michigan or any other jurisdiction, 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.
 - 12) A complete list of all marihuana Permits and Licenses held by the Applicant, or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer, or manager of the Applicant whether Commercial Medical Marihuana Facilities or Marihuana Establishments, including complete copies of the issued Permits and Licenses.
 - 13) Information regarding any other Marihuana Establishment, Commercial Medical Marihuana Facility, similar Permit or License, or any other marihuana business or venture that the Applicant, or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer, or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each.
- d. Any other information reasonably requested by the Township relevant to the processing or consideration of the Application.

- e. Information obtained from the Applicant or Permit Holder is exempt from public disclosure under state law, to the extent permitted by the Michigan Freedom of Information Act.
- f. Applicant and all related Persons acknowledge and consent to a background check and investigation by the Township as a condition of the Township processing and reviewing the Application for approval or denial of a Permit, including providing their Social Security numbers or other personally identifying information to the Township or their agents for a background check or any other purpose permitted under this Ordinance. Such information is confidential to the extent permitted by the Michigan Freedom of Information Act and shall not be disclosed except as permitted or required under this Ordinance.
- g. By submitting an Application pursuant to this Ordinance, Applicant and all related Persons agree that the Applicant and all related Persons have had the opportunity to review the Ordinance and the competitive process utilized by the Township and agree that it conforms to the requirements of MRTMA and all other statutes. The Applicant and all related Persons covenant not to bring any legal claim to any federal or state court alleging that this Ordinance and the competitive process set forth by the Township violate MRTMA, any other statute, or are otherwise illegal.
- h. A Renewal Application or Co-location Application may expressly incorporate by reference information or documentation contained in the original Permit Application or prior Permit Renewal Application, making it clear where such information or documentation can be found, provided that the information or documentation has not changed (e.g., a Renewal Applicant does not have to submit a new site plan if no elements of a previously submitted site plan have changed, and instead may provide a statement that the previous site plan remains accurate).
- i. Prior to the approval or renewal of an Application for a Marihuana Grower Permit, an Applicant may amend the Class of the Marihuana Grower Permit Application by submitting an application form and expressly incorporating by reference the information or documentation contained in the original Permit Application. The Township may impose a fee as established by resolution. The Applicant will be required to show proof of a valid state License allowing operation of the new class of Marihuana Grower Permit prior to operation.

3. Evaluation

- a. If more Applications for new Establishments are received than there are available Permits (more than zero) under this Ordinance, and the available Permit limits in this Ordinance would prevent the Department from issuing a state license to all Applicants who meet the requirements of MCL 333.27959(3), then the Township will decide among the competing initial Applications with a competitive process established by the Township Board intended to select the Applicants who are best suited to operate in compliance with the Act, this Ordinance, and within the Township.

- b. The Township Board is authorized to issue procedures and standards establishing the competitive process for the Township to select the Applicant to operate in compliance with the Act, this Ordinance, and within the Township. The Township Board shall consider, review, and evaluate each initial Application according to the procedures and standards. In their review, the Township Board will evaluate the contents of the Application(s), other materials submitted by the applicant, legal opinions or other reports drafted to help facilitate board review, and any other material deemed relevant by the Township Board.
- c. After the Application window is closed, the Township shall hold a public hearing to review the Application(s) under the standards provided within this Ordinance.
- d. To determine whether the Application(s) will be approved, the Township Board will apply the procedures and standards determined by the Township Board.
- e. In the event an initial Applicant that was subject to competitive review appeals the Township's decision, then the Township shall automatically stay all approvals issued to other Applicant(s) who participated in the same competitive review as the Applicant(s) appealing. When an approval is stayed, the Applicant(s) granted approval may request certification from the Clerk to apply for zoning approval of a Marihuana Establishment. This stay shall be lifted when the appealing Applicant(s) abandon or exhaust the appeal process.
- f. Permits subject to renewal shall not be considered available for the purposes of this subsection.

4. **Approval, Issuance, and Denial**

- a. Permit Approval. The Township Board shall make a determination based upon satisfactory compliance with this ordinance, Application requirements, and all other permits, certificates, rules or regulations and do one of the following:
 - 1) Grant final approval to the Application and issue the Permit. If the Application is approved, then the Permit shall be issued to the Applicant as the Permit Holder for a specific Permitted Premises.
 - 2) Reject the Application stating the reasons for such rejection.
- b. Denial. All decisions made by the Township Board pursuant to this Ordinance, except decisions relating to the number of Permits to be made available or issued, are subject to this Ordinance's appeal process. After the appeal process has been exhausted, a Township Board decision may be appealed to a court of competent jurisdiction, provided that: (1) with respect to a denial of an initial Permit or transfer Application, an appeal shall not grant any rights to an Applicant, subject to an order of the court; and (2) with

respect to denial of a Renewal Application, if the Applicant has paid all required fees (and any additional fees due during the pendency of the appeal), the pre-existing Permit shall be extended during the pendency of the appeal, unless otherwise ordered by a court.

c. Zoning Approval and Operation.

1) All special land use permit applications must be submitted within 60 days of the Board's determination under this subsection. If the Applicant does not submit a special land use permit application or a special land use permit is denied and all appeals are exhausted, then the Permit approval is revoked.

2) The Applicant shall commence operation within 18 months of the Permit approval or the Permit approval shall be revoked. The Board may extend this timeframe for an Applicant whose building is not yet in existence at the time of the Township's approval for additional six month periods where the Applicant has commenced construction of the building and on other good cause shown to the Board.

5. Appeal

- a. The Township and Applicant(s) have the right to be represented by legal counsel during an appeal under this Ordinance.
- b. Within ten (10) calendar days of a decision of the Township Board, any Applicant under this Ordinance may file a written appeal to the Township stating the grounds upon which the Township Board's decision was not authorized under the Ordinance, law, or not based on competent, material, and substantial evidence before the Township Board.
- c. After receipt of an appeal, the Township shall schedule the matter for a hearing before a hearing officer. The Township will appoint a hearing officer for each matter.
- d. The hearing officer shall review and determine the merit of the grounds raised by the Applicant in their written appeal.
- e. Following the appeal hearing, the hearing officer shall prepare recommended findings of fact and conclusions of law for transmittal to the Township Board based upon the evidence presented to the Township Board to make the decision being appealed. The hearing officer will recommend whether the Township Board should affirm, affirm with modification, or reverse the Township Board's decision.
- f. The Township Board, in its final order, may adopt, modify, or reject, in whole or in part, the hearing officer's written recommendation. If the Township Board modifies or rejects the hearing officer's written recommendation, the reasons for that action shall be stated in the Township Board's final order.

6. **Renewal and Transfer Applications.** Renewal and transfer Applications are not subject to competitive review and may submit Applications as required or allowed in this Ordinance whether or not the Township is accepting Applications.

7. **Renewal Application.**

- a. Same Requirements. In addition to other information required by the Ordinance, the application contents for Renewal Applications are the same as those of initial Applications under this Ordinance. Renewal Applications shall be submitted to and received by the Township not less than ninety (90) days prior to the expiration of the annual Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be presumed to have determined not to seek renewal.
- b. Change in Location. An Application requesting a change in the location of the Permitted Premises shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit.
- c. Delayed Renewal. A Permit Holder whose Application has not been received 90 days prior to the expiration date may rebut the presumption and apply for the right to file a delayed Renewal Application, which shall be granted by the Township unless the Applicant has been found to have defrauded the Township, lost its License, or committed a material violation of this Ordinance. The application for the right to file a delayed Renewal Application must be filed by the expiration date, and the applicable fees shall be paid at the time of the delayed application, and the pre-existing Permit shall thereupon be extended until action is taken on the delayed Renewal Application, but no longer than 12 months after the expiration date.
- d. Past Conduct. The Township Board shall consider a Renewal Applicant's past history of compliance with this Ordinance and other laws in deciding whether to issue approval. A Renewal Applicant's failure to comply with this Ordinance or other laws may result in a Renewal Application being denied.

8. **Transfer Application.** Any unauthorized transfer or attempted transfer of a Permit or ownership interest in a Permit Holder constitutes a violation of this Ordinance.

- a. Permits are non-transferable within the twenty-four (24) months of a Permit Holder being issued a permit from their initial application.
- b. In addition to other information required by the Ordinance, the same application contents required of initial Applications applies to all Applications to transfer, sell, or otherwise convey an existing Permit to a new legal entity or individual(s), as well as a certified copy of the meeting minutes of the board of directors or members authorizing the transfer, sale, or conveyance of the Permit or, if the Permit Holder is a natural person, a notarized statement or other proof satisfactory to the Township authorizing the transfer. Only after the transferee has applied for and obtained approval for the transfer, including

without limitation the payment of the same fees for the transferred Permit as applies for an initial Permit (unless otherwise set by the Township Board by resolution), may the Permit be transferred.

- c. No Permit Holder shall transfer, sell, or otherwise convey more than 1% of the ownership interest in the entity holding the Permit, whether in a single transaction or the sum of multiple transactions, without the express approval of the Township Board after submitting a transfer Application under this Ordinance. The transferee Applicant and Permit Holder must submit a change in control transfer Application to the Township prior to any sale or transfer of stock or membership interest. The Application shall include all of the following:
- 1) The names, home addresses and personal phone numbers for all owners, directors, and officers of the Permit Holder, the Marihuana Establishment, and Applicant;
 - 2) If the Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, attach a copy of all company formation documents (including bylaws and amendments), purchase agreement for stock or membership interest, and a certified copy of the meeting minutes of the board of directors or members authorizing the sale of stock or membership interest.
 - 3) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including bylaws and amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan, and a certificate of good standing.
 - 4) A valid, unexpired driver's license or state issued ID for all owners, directors, and officers of the Applicant.
 - 5) Whether any Applicant, or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of 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.
 - 6) Information regarding any other Marihuana Establishment or Commercial Medical Marihuana Facility, similar Permit or License, or any other marihuana business or venture that the Applicant, owner, partner, director, officer, or manager of the Applicant, or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each.

- 7) A non-refundable Application fee, as set by resolution by the Board.
 - 8) Any documents required to reflect that the Marihuana Establishment will be operated and managed consistent with the current filings provided to the Township.
 - 9) Any other information reasonably requested by the Township relevant to the processing or consideration of the Application.
- d. If, prior to the issuance of the Permit, an individual Applicant wishes to substitute a different Person as Applicant; or an Applicant that is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, seeks to undergo a change in ownership greater than 1%, the current Applicant may submit a written request to the Township to amend the Application. Upon approval by the Clerk or as designated in the procedures and standards, the current Applicant may amend the Application to reflect such a change in identity or ownership, provided that the substituted Applicant(s) submits any documents required by the Township, including those for an initial Application under this Ordinance. The Township Board may set a fee by resolution for such a change.
- e. The following actions constitute transfer of ownership and require a transfer Application, Application Fee, and Township Board approval:
- 1) *Persons*. Any transfer of more than 1% of an ownership interest in an Applicant or Permit Holder between Persons constitutes a transfer of ownership.
 - 2) *Corporations*. Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a Permit constitutes a transfer of ownership.
 - 3) *Limited Liability Companies*. Any transfer of more than 1% of membership interest or any change in managing members or change in the interest held by any managing members(s) of any limited liability company holding a Permit constitutes a transfer of ownership.
 - 4) *Partnerships*. Any transfer of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a Permit constitutes a transfer of ownership.
 - 5) *Assets*. Any transfer of more than 1% of the assets held by an Applicant or Permit Holder within the Township constitutes a transfer of ownership.

9. **Effect of Transfer.**

- a. Immediately following the approval of a transfer by the Township Board, the transferee(s) will obtain all the interests, rights, obligations, and responsibilities of the previous Permit Holder. Once a Permit Holder has transferred his or her ownership

interest, any privileges enjoyed by that Permit Holder under this Ordinance are terminated.

- b. For transfers adding or removing members from an existing Permit Holder, the renewal and termination dates of the Permit shall not change.
- c. For transfers where no building is yet in existence, the deadline for commencement of construction shall be extended to one year immediately following the date the transfer is approved, but construction must commence within three years after the Township's initial approval of the Application, regardless of any subsequent transfers.

10. Duty to Supplement.

- a. If, at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MRTMA, or any rule or regulation promulgated thereunder, changes in any way from what is stated in the Application, the Applicant or Permit Holder shall supplement such information in writing within ten (10) days from the date upon which such change occurs.
- b. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge or indictment, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, the Permit Holder, or any owner, officer, director, manager, or employee within ten (10) days of the date when the Applicant, Permit Holder, owner, officer, director, or manager has notice of the event.
- c. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge or indictment, and any criminal conviction, whether a felony, misdemeanor, or any violation of a local law or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana, the MMMA, the MMFLA, the MRTMA, any building, fire, health, or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marihuana by the Applicant, Permit Holder, any owner, officer, director, manager, or employee within (10) ten days of the date when the Applicant, Permit Holder, any owner, principal officer, director, or manager has notice of the event.

SECTION 5. OPERATIONAL REQUIREMENTS–MARIHUANA ESTABLISHMENT. A Marihuana Establishment issued a Permit under this Ordinance and operating in the Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it determines reasonable.

- 1. *Scope of Operation.* Marihuana Establishments shall comply with all applicable codes, including local zoning, building, and health departments, except to the extent that they are inconsistent with the MRTMA or this Ordinance. The Establishment must hold a valid local Permit and Michigan Marihuana Establishment License for the type of Marihuana Establishment intended to be carried out on the Permitted Property. The Establishment operator, owner, Licensee or Permit Holder must have documentation available that

demonstrates full compliance with all local and State sales tax requirements, including holding any Permits or Licenses, if applicable.

2. *Required Documentation.* Each Marihuana Establishment shall be operated from the Permitted Premises on the Permitted Property. No Marihuana Establishment shall be permitted to operate from a moveable, mobile, or transitory location, except for a Permitted and Licensed Marihuana Secure Transporter when engaged in the lawful transport of Marihuana. No person under the age of eighteen (18) shall be allowed to enter the Permitted Premises without a parent or legal guardian.
3. *Security.* Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:
 - a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises; and
 - b. Robbery and burglary alarm systems that are professionally monitored and operated 24 hours a day, 7 days a week; and
 - c. A locking vault permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Establishment overnight, except for Marihuana actively grown in a Grower Establishment; and
 - d. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Property, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Permitted Premises; and
 - e. All security recordings and documentation shall be preserved for at least 30 days by the Permit Holder and made available to any law enforcement agency upon request for inspection.
4. *Operating Hours.* No Retailer or retail aspect of a Microbusiness shall operate between the hours of 9:00 p.m. and 7:00 a.m.
5. *Required Spacing.*
 - a. In this subsection, “school” means a public school, special education building operated by an intermediate school district or school district, state approved nonpublic school, or a vocational education building operated by an intermediate school district or school district as those terms are defined in the Revised School Code, MCL 380.1 et seq.
 - b. In this subsection, any distance shall be measured horizontally between the nearest outside wall of the proposed Permitted Premises to the nearest outside wall of a building with a sensitive land use identified in this subsection, or to the outside limits of an outdoor area used in conjunction with the sensitive land use.

- c. No Marihuana Establishment shall be located or operated within one thousand (1,000) feet from any school, licensed childcare centers, places of worship or public parks if such uses are in existence at the time the Township issues its approval of the Establishment's initial Application.
 - d. A waiver from required spacing may be granted by the Township Board in any one of the following cases, except minimum distances from schools:
 - 1) The owner of the licensed childcare center, place of worship or public park within 1,000 feet of the proposed Establishment provides a signed and notarized statement stating they have no objection to the proposed Establishment; or
 - 2) The Township Board finds that the operation of the Marihuana Establishment will not have a detrimental effect on the childcare center, place of worship or public park within 1,000 feet of the proposed Establishment.
6. *Colocation with Certain Commercial Medical Marihuana Facilities and Adult-Use Establishments.* Subject to underlying zoning restrictions, the following colocation is permitted:
- a. A Grower Facility, Processor Facility, or Provisioning Center operating pursuant to the MMFLA may operate from within a single facility also operating with a Marihuana Grower, Marihuana Processor, or Marihuana Retailer operating pursuant to the MRTMA and applicable rules promulgated by the Department. Provided that no colocation of Marihuana Facilities and Marihuana Establishments will allow more than five hundred (500) plants to be grown at a single Permitted Property.
 - b. A Marihuana Grower, Marihuana Processor, or Marihuana Retailer, may operate from within a single facility operating pursuant to the MRTMA and applicable rules promulgated by the Department.
 - c. Colocation of Establishment Permits is permitted under applicable rules and regulations of the Department.
7. *Stacked License.* Stacking is not permitted.
8. *Amount of Marihuana.* The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Establishment shall not exceed that amount permitted by the state License or the Township's Permit.
9. *Sale of Marihuana.*
- a. The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law.
 - b. The Establishment is prohibited from selling, soliciting or receiving orders for Marihuana or Marihuana Products over the internet.

10. *Sign Restrictions.* No pictures, photographs, drawings or other depictions of Marihuana or Marihuana Paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words “Marihuana,” “cannabis” and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property.
11. *Use of Marihuana or other substances.* The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited.
12. *Indoor Operation.* All activities of Marihuana Establishments, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity permitted under the Permit Holder’s License or Permit must occur indoors. The Establishment’s operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no nuisance odor is detectable at the property line of the Permitted Premises.
13. *No Nuisance.* The acquisition, possession, cultivation, use, delivery, distribution, processing, sale, or transfer of Marihuana within the Township shall not create a public nuisance which unreasonably disturbs or annoys the quiet, comfort, or repose of a reasonable person of normal sensitivities in the vicinity. No person shall commit, create, or maintain such public nuisance including by reason of noise, vibration, traffic, parking, glare, fumes, odor, unsanitary or unsightly conditions, fire hazard, light pollution, toxic chemicals, or other public nuisance conditions that would offend a reasonable person of normal sensitivities.
14. *Control and Mitigation of Odor.* Odors from cultivating, growing, manufacturing, and processing must be abated to the fullest extent reasonably possible through the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building from which the odor is generated. Air scrubbing and carbon filtration systems shall be required unless the Township Board or its designated representative approves of Reasonably Available Odor Control Technology for a specific premises.
15. *Distribution.* No person operating an Establishment shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.
16. *Permits.* All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises, including those areas in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting, processing, or testing of Marihuana are located.
17. *Unpermitted Growing.* A customer may not grow his or her own Marihuana at an Adult-Use Marihuana Establishment.

18. *Waste Disposal.* The Permit Holder, owner and operator of the Establishment shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
19. *Transportation.* Marihuana may be transported by a Marihuana Secure Transporter within the Township under this Ordinance, and to effectuate its purpose, only:
 - a. By Persons who are otherwise authorized by state law to transport Marihuana;
 - b. In a manner consistent with all applicable state laws and rules, as amended;
 - c. In a secure manner designed to prevent the loss of the Marihuana;
 - d. No vehicle used for the transportation or delivery of Marihuana under this Ordinance shall have for markings the words “Marihuana”, cannabis” or any similar words; pictures or other renderings of the Marihuana plant; advertisements for Marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase, or symbol indicating or tending to indicate that the vehicle is transporting Marihuana;
 - e. No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.
20. *Two Year Operation.* The Township may deny renewal of any Permit to a Marihuana Establishment that does commence operations within two years of the issuance of the Permit.
21. *Additional Conditions.* The Township Board may impose such reasonable terms and conditions on a Marihuana Establishment special land use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

SECTION 6. PENALTIES AND CONSEQUENCES FOR VIOLATION. In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances:

1. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall be subject to and found responsible for a municipal civil infraction. The forfeiture for any municipal civil infraction shall be five hundred dollars (\$500.00) plus court costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, *et seq.* Each day a violation continues shall be deemed a separate municipal civil infraction.
2. A Permit issued under this Ordinance may be denied, limited, revoked, or restricted under any of the following conditions:

- a. Any fraudulent, false, misleading, or material misrepresentation contained in the Application.
 - b. Repeat violations of any requirements of this Ordinance or other applicable law, rule, or regulation. As used in this subsection, the term “repeat offense” means a second (or any subsequent) misdemeanor violation or civil infraction of the same requirement or provision committed within any six-month period and upon conviction or responsibility thereof.
 - c. A valid License is not maintained as required by this Ordinance.
 - d. The Permit Holder, its agent, manager, or employee failed to timely submit any document or failed to timely make any material disclosure as required by this Ordinance.
3. If a Permit is revoked or limited under this Ordinance, the Township or its designee shall issue a notice stating the revocation, limitation, or restriction including the reason for the action and providing a date and time for an evidentiary hearing before the Township Board.
 4. The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in subsections (1) and (2) of this section, except as excluded from responsibility by state law.
 5. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are civil in nature. The imposition of any fine or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

SECTION 7. MARIHUANA ESTABLISHMENTS PRESENTLY PERMITTED

Marihuana Establishments presently permitted under Almena Township Ordinance No.0-2019-02 Recreational Marihuana Establishments shall be allowed to continue operating under their present annual Permit and under the requirements of Almena Township Ordinance No.0-2019-02 Recreational Marihuana Establishments. Marihuana Establishments permitted at the time of this Ordinance’s adoption will be obligated to conform to this Ordinance’s requirements for renewal permits when they submit their next annual renewal Application, at which time they will be required to meet all requirements under this Ordinance.

SECTION 8. SEVERABILITY. The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 9. SAVINGS CLAUSE. This Ordinance does not affect rights and duties matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 10. REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. Almena Township Ordinance No. 0-2019-02 is hereby repealed.

SECTION 11. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days following publication after adoption by the Township Board.

YEAS: Van Tassel, Rickli, Moffat, Babik, Kloosterman, Redmond, Toman

NAYS: None

ABSENT: None

ORDINANCE DECLARED ADOPTED




Bill Van Tassel, Almena Township Supervisor

CERTIFICATE

STATE OF MICHIGAN)
) ss
COUNTY OF VAN BUREN)

I, the undersigned, the duly qualified and acting Clerk for Almena Township, Van Buren County, Michigan, HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Almena Township Board at a meeting held on September 21, 2022.

ATTESTED:



Sandra Rickli, Township Clerk