

ALMENA TOWNSHIP
VAN BUREN COUNTY, MICHIGAN

COPY

ORDINANCE NO. 2022-05

ORDINANCE REGULATING NON-COMMERCIAL MARIHUANA: PRIMARY CAREGIVERS, PATIENTS, OR INDIVIDUALS ENGAGING IN MRTMA ACTIVITIES

At a meeting of the Township Board of the Almena Township, Van Buren County, Michigan, (“Township”) held at the Almena Township Hall on September 21, 2022 at 6:30 p.m., Township Board Member G. M. A. P. O. T. moved to adopt the following Ordinance, which motion was seconded by Township Board Member T. Klaassterman :

An Ordinance to regulate Marihuana under the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.; and to require a Township permit for registered Primary Caregiver Operations; to regulate nuisances and other impacts created by marihuana activities within the Township, including establishing marihuana odor as a nuisance per se; to promote the general health, safety, and welfare of the community; and repeal any ordinance or parts of ordinances or resolutions in conflict with this Ordinance.

ALMENA TOWNSHIP, VAN BUREN COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This Ordinance shall be known as and may be cited as the Almena Township Ordinance Regulating Non-Commercial Marihuana: Primary Caregivers, Patients, or Individuals Engaging in MRTMA Activities or the Almena Township Ordinance Regulating Caregivers.

SECTION 2: DEFINITIONS.

1. Words used within this Ordinance shall be construed to have the same meaning as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, *et seq.* (“MMMA”), the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101, *et seq.* (“MMFLA”), and the Michigan Regulation and Taxation of Marihuana Act, Michigan Initiated Law 1 of 2018, MCL 333.27951, *et seq.* (“MRTMA”), except where otherwise specifically provided.
2. “Primary Caregiver Operation” means the cultivation, storage and/or distribution of marihuana by a medical marihuana primary caregiver in accordance with the MMMA and Township ordinances.
3. “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

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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.

SECTION 3: SCOPE; APPLICABILITY. The acquisition, possession, cultivation, use, delivery, distribution, processing, sale, or transfer of Marihuana to treat or alleviate a Debilitating Medical Condition within the Township shall be in compliance with the MMMA and the ordinances of this Township. This Ordinance does not prohibit the acquisition, possession, cultivation, use, delivery, or distribution of Marihuana for the personal use of an adult over the age of twenty-one (21) in accordance with the MRTMA. This Ordinance also does not prohibit the acquisition, possession, cultivation, use, delivery, distribution, processing, sale, or transfer of Marihuana at Facilities or Establishments acting in accordance with the ordinances of the Township and the MMFLA and MRTMA where applicable.

SECTION 4: PRIMARY CAREGIVER OPERATIONS; PERMIT REQUIRED; EXCEPTION. In order to protect the health, safety, and welfare of the community, ensure compliance with the MMMA, and ensure compliance with Township ordinances, Primary Caregivers conducting activities under the MMMA, including the transfer Marihuana to other Qualifying Patients, shall apply for and obtain a permit from the Township, after tendering to the Township the following information and paying the required application fee:

1. A complete and accurate application shall be submitted on a form provided by the Township with an application fee in an amount determined by resolution of the Township Board.
2. The permit application shall include the following:
 - a. The name, address, phone number and e-mail address of the applicant;
 - b. The address of the property where Marihuana is acquired, possessed, cultivated, processed, sold, or transferred;
 - c. A copy of a current state registration card issued to the Primary Caregiver;
 - d. A full description of the nature and types of equipment which will be used in Marihuana cultivation and processing;
 - e. A description of the location at which the Marihuana cultivation, processing, use, and transfer will take place;
 - f. A sketch plan of the premises identifying the key areas where Marihuana cultivation, processing, use, and transfer will take place, including the location of chemicals used in the processing and the storage of waste products while being maintained on the premises;
 - g. A plan for the disposal of Marihuana and related byproducts that will be used;

- h. The number of marihuana plants that will be cultivated and processed.
3. The Township Clerk, or other representative designated by the Township Board, shall review a complete application, with supporting materials, and shall approve, approve with conditions, or deny a permit based upon compliance with this Ordinance. The basis for a denial shall be stated in writing.
4. A permit shall remain valid for five years following its approval.
5. Information treated as confidential under the MMMA, including the Primary Caregiver registry identification card and any information about Qualifying Patients associated with the Primary Caregiver, which is received by the Township, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
6. This Ordinance does not require a permit for the acquisition, possession, cultivation, processing, or use of Marihuana for personal purposes by a Qualifying Patient in strict compliance with the MMMA or by an individual over the age of twenty-one (21) in strict compliance with the MRTMA.

SECTION 5: REGULATION OF PRIMARY CAREGIVER OPERATIONS.

1. There shall be no more than one Primary Caregiver acquiring, cultivating, processing, or transferring Marihuana per premises. For purposes of this ordinance, "premises" shall mean the area within a building under common ownership.
2. No signs or advertisements related to the use shall be permitted on the exterior of the structure on the premises.
3. 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.
4. The sale of commodities at a residence where Primary Caregivers acquire, possess, cultivate, process, transfer, or use Marihuana is prohibited.
5. The parcel, premises, and all enclosed, locked facilities where a Primary Caregiver conducts the acquisition, possession, cultivation, processing, transfer, or use of Marihuana shall be available for inspection upon request by a building official, Township code enforcement officer, or any law enforcement official.

6. The Marihuana cultivation, processing, use, and transfer shall be maintained in compliance with the requirements of Township ordinances and the MMMA. Any departure shall be grounds to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in a Primary Caregiver Operation unless and until a new permit is granted.

SECTION 6: GENERALLY APPLICABLE MARIHUNA REGULATIONS.

1. *Maximum Residential Plants.* Except for a Primary Caregiver Operation, Marihuana grown on the premises where a residential dwelling is located shall not exceed twelve (12) marihuana plants per premises and comply with the applicable provisions of the MMMA or MRTMA.
2. *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.
3. *Indoor Operation.* All marihuana activity including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity excluding consumption or transport of marihuana must occur indoors. The enclosed locked facilities marihuana shall be located shall be constructed so that no marihuana is visible from outside the secure, locked facility.
4. *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.
5. *Lighting.* All lighting shall be directed away from and be shielded from adjacent properties without alteration to the exterior of the residence and shall be so arranged as to not adversely affect adjacent properties or driver visibility on adjacent public roads.
6. *Construction Permits Required.* All necessary building, electrical, plumbing and mechanical permits and those required by the building official shall be obtained for any portion of a building or structure related to acquisition, possession, cultivation, use, delivery, distribution, processing, sale, or transfer of Marihuana within the Township.
7. *Chemical Storage.* Any storage of chemicals that exceeds typical residential use, such as herbicides, pesticides, and fertilizers shall be stored in a reasonably safe and prudent

manner and shall be subject to the inspection and approval by the Township to ensure compliance with applicable fire protection codes.

8. *Waste Disposal.* Any person shall use lawful methods to dispose of waste or by-products from any Marihuana activities allowed within the Township according to all applicable local, state, and federal laws and regulations.

SECTION 7: VIOLATIONS AND PENALTIES.

1. Any person who disobeys, neglects, or refuses to comply with any provision of this Ordinance, or who causes, allows, or consents to any of the same shall be deemed to be responsible for a municipal civil infraction. A violation of this Ordinance is deemed a nuisance *per se*.
2. The Township may seek to compel compliance with the Ordinance or abate a nuisance through seeking injunctive relief or orders from a court of competent jurisdiction, through a civil infraction proceeding or circuit court proceeding.
3. The ordinance enforcement duties of a Township official or law enforcement official authorized to enforce this Ordinance shall include:
 - a. Investigation of Ordinance violations;
 - b. Issuing and serving Municipal Civil Infraction Citations as authorized under the Revised Judicature Act, Public Act 12 of 1994, MCL 600.8396, as amended;
 - c. Appearance in court or other judicial proceedings to assist in the prosecution of Ordinance violations; and
 - d. Such other Ordinance enforcing duties as may be delegated by the Township Supervisor or assigned by the Township Attorney.
4. This Ordinance shall be administered and enforced by the Almena Township Code Enforcement Officer or by such other person(s) as designated by the Township Board from time to time.

SECTION 8: SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the Ordinance shall not be affected. The Township's intent in application of this Ordinance is that any provisions that remain after any action by Court are enforceable consistent with the Ordinance's intent.

SECTION 9: REPEAL. All ordinances or parts of ordinances in conflict with this Ordinance are repealed.

