



# CITY OF ALBION CITY COUNCIL MEETING AGENDA

Meetings: First and Third Mondays – 7:00 p.m.

City Council Chambers ♦ Second Floor ♦ 112 West Cass Street ♦ Albion, MI 49224

COUNCIL-MANAGER  
GOVERNMENT

Council members and other officials normally in attendance.

## AGENDA

### COUNCIL MEETING Monday, January 22, 2018

7:00 P.M.

**Garrett Brown**  
Mayor

**Maurice Barnes, Jr.**  
Council Member  
1<sup>st</sup> Precinct

**Lenn Reid**  
Council Member  
2<sup>nd</sup> Precinct

**Sonya Brown**  
Mayor Pro-Tem  
Council Member  
3<sup>rd</sup> Precinct

**Marcola Lawler**  
Council Member  
4<sup>th</sup> Precinct

**Jeanette Spicer**  
Council Member  
5<sup>th</sup> Precinct

**Andrew French**  
Council Member  
6<sup>th</sup> Precinct

**Sheryl L. Mitchell**  
City Manager

**The Harkness Law Firm**  
Atty Cullen Harkness

**Jill Domingo**  
City Clerk

NOTICE FOR PERSONS WITH HEARING IMPAIRMENTS WHO REQUIRE THE USE OF A PORTABLE LISTENING DEVICE

Please contact the City Clerk's office at 517.629.5535 and a listening device will be provided upon notification. If you require a signer, please notify City Hall at least five (5) days prior to the posted meeting time.

### PLEASE TURN OFF CELL PHONES DURING MEETING

- I. CALL TO ORDER
- II. MOMENT OF SILENCE TO BE OBSERVED
- III. PLEDGE OF ALLEGIANCE
- IV. ROLL CALL
- V. MAYOR AND COUNCIL MEMBER'S COMMENTS
- VI. CITY MANAGER REPORT
- VII. PRESENTATIONS
- VIII. PUBLIC HEARINGS
- IX. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to **agenda items only** and to no more than three (3) minutes. Proper decorum is required.)
- X. CONSENT CALENDAR (VV) (Items on Consent Calendar are voted on as one unit)
  - A. Approval Study Session Minutes, January 11, 2018
- XI. ITEMS FOR INDIVIDUAL DISCUSSION
  - A. Request Approval Resolution # 2018-03, To Approve Intergovernmental Agreement with City of Marshall for Continued Operation of the Albion-Marshall Connector from 2018-2020 (RCV)
  - B. Discussion-Solid Waste
  - C. Discussion-2018 Local Street Repairs
  - D. Discussion/ Approval Amendment to Council Rules of Procedure



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*Meetings: First and Third Mondays – 7:00 p.m.*

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- E. Discussion-Ordinance # 2018-01, Medical Marijuana Ordinance
- F. Discussion of Snow Removal & Street Conditions
- G. Request Approval Color and Logo for Water Tower (RCV)
- XII. Future Agenda Items
- XIII. Motion to Excuse Absent Council Member(s)
- XIII. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to no more than three (3) minutes. Proper decorum is required.)
- XIV. ADJOURN



**CITY OF ALBION**  
**Office of the City Manager**  
**Sheryl L. Mitchell**

112 West Cass Street ♦ Albion, MI 49224  
517.629.7172 ♦ smitchell@cityofalbionmi.gov

**MEMO**

**TO:** Honorable Mayor and City Council  
**FR:** Sheryl L. Mitchell, City Manager  
**DA:** January 22, 2018  
**RE:** **Agenda Summary**

ITEMS FOR INDIVIDUAL DISCUSSION

**A. Request Approval Resolution # 2018-03, To Approve Intergovernmental Agreement with City of Marshall for Continued Operation of the Albion-Marshall Connector 2018-2020.** The Albion-Marshall Connector currently provides curb to curb public transportation between Albion and Marshall to the residents of both municipalities. The Connector has continued to be popular as a form of public transportation and Albion citizens have begun to rely upon increasingly more for travel to work, doctor's appointments, and events in each municipality. The service has faced a budget short-fall ranging from \$45,000 to \$30,000 each year. In 2016, the City approved the release of up to \$45,000.00 from the City's fund balance for the continued operation of the Albion-Marshall Connector via Resolution 2016-35. In 2017, through the adoption of Resolution #2017-33, the intergovernmental agreement for continued operation of the AMC was approved with \$15,000 from the City of Albion, and Marshall Public Schools and Oaklawn Hospital contributing a combined total of \$15,000.00 of the needed \$30,000.00 to continue operations. The City Council requested that a more sustainable solution be found to address the funding for this service. The City Administration has met with several community partners who have each agreed to provide \$3,000 in funding for 3 years for the continued operations of the Albion Marshall Connector. This resolution approves extending the intergovernmental agreement with the City of Marshall for the continued operation of the Albion-Marshall Connector through June 30, 2020, and approved appropriating \$3,000 annually for 3 years towards the AMC operations. **City Manager recommends approval.**

**B. Discussion-Solid Waste** - Mayor Brown requested a discussion of Solid Waste at the December 18th meeting.

**C. Discussion-2018 Local Street Repairs** – Council Member Spicer requested a discussion of 2018 Local Street Repairs.

**D. Request Approval Resolution # 2018-04, Amendment to Council Rules of Procedure.** Council Member Lawler requested adding language that mandates meetings between the Mayor and the City Manager, with a report of the meeting to be provided to council. Direction is needed related to the frequency of the meetings.

**E. Discussion-Ordinance # 2018-01, Medical Marijuana Ordinance** – Attorney Harkness has requested direction relative to the distance requirements between licensed facilities and churches, schools, and parks. Also, at what distance would fencing be required.

**F. Discussion of Snow Removal & Street Conditions** – Council Member Brown indicated that she received citizens concerns via social media regarding snow removal and requested a response from the administration.

**G. Request Approval Color and Logo for Water Tower** – As part of the re-design and repair of the water tower, direction is needed from Council relative to the design on the water tower:

- Color
- “City of Albion” or other wording
- City Logo, City Flag, or US Flag

City of Albion  
Study Session Minutes  
January 11, 2018

I. CALL TO ORDER

Mayor Brown called the meeting to order at 7:00 p.m.

II. ROLL CALL

PRESENT: Council Members Lenn Reid (2), Sonya Brown (3), Marcola Lawler (4), Jeanette Spicer (5) and Andrew French (6) and Mayor Brown.

ABSENT: Council Member Barnes (1).

STAFF PRESENT:

Sheryl Mitchell, City Manager; Cullen Harkness, City Attorney; Jill Domingo, City Clerk; Stacey Levin, Assistant City Manager; and Scott Kipp, Chief Public Safety.

III. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to **agenda items only** and to no more than three (3) minutes. Proper decorum is required).

No public comments were received.

IV. ITEMS FOR INDIVIDUAL DISCUSSION

A. Discussion-City Manager Form of Government-Attorney Scott Smith

Attorney Scott Smith gave the following presentation of Roles and Responsibilities of City Officials in a Council-Manager Form of Government:

Context for City Government:

- 10<sup>th</sup> Amendment to the U.S. Constitution reserves rights to states
- Michigan's 1963 Constitution preserves "home rule" for cities
  - Home rule was intended to limit state government
  - Instead, the legislative trend seems to limit local government
- City Charter is like a city constitution
  - Establishes the structure of city government
  - Grants and limits the authority and duties of officials and bodies
  - Often includes certain procedures to be followed
- Concept if that the people confer power on government
- Several types of local governments including:
  - Town Hall
  - Commission
  - Strong mayor or strong executive
  - Commission (or council)-manager

- Roles and responsibilities are shaped by the form
- Albion has a council-manager form of government
  - City Manager is the chief administrative officer
  - Council is the policy making & legislative body
  - Mayor is voting member & presiding officer of the Council
- City Manager
  - Serves at pleasure of Council
  - Administers & supervises administrative departments
  - Officers & employees, except Council members & attorney are accountable to City Manager
  - Administers the annual budget
  - Prepares (with Clerk) agendas for & attends Council meetings
  - Recommends adoption of measures Manager deems necessary
  - Enforces ordinances
  - City Charter provides very broad authority to City Manager
- Mayor
  - Ceremonial head of the City
  - Chief executive officer
  - Has an equal voice & duty to vote as Council member
  - Presiding officer of Council
  - Advises the Council on the public affairs of the City
  - Generally appoints, with Council consent, members of boards & bodies
  - Emergency powers under law
- Council
  - The body, not individual Council members, has authority
  - Council acts through ordinances, resolutions & motions
  - Makes policy
  - Appoints Manager & city attorney
  - Adopts budgets, levies taxes & approves borrowing
  - Approves contracts
  - As a legislative body, adopts laws (i.e. ordinances)
  - Fulfills other duties provided by law
- Council Rules of Procedure
  - Council members address comments to Mayor & on topic
  - Personal comments or attacks are out of order
  - Council members should speak more than twice on a matter until all others have a chance to speak & no longer than 10 minutes
  - Public comments limited to 3 minutes at beginning & end of meeting and at public hearings
  - Public comments that are personal, disrespectful, slanderous or profane are out of order, as are debates with other audience members
  - Audience members must submit handouts before the meeting; audio & electronic visual displays are out of order
- Open Government
  - OMA, FOIA & records retention requirements apply to you
  - With limited exceptions, if it involves city business, it is public

- Exceptions are narrowly construed
- Generally apply only when public (persons outside government) benefit from exemption so it protects public's interests
- Electronic communications related to city business, even if on personal devices, are subject to required retention and disclosure
- So what is written or recorded is generally recoverable
- Assume it will be published or broadcast
- Best Practices
  - As a City official, people perceive you as its representative
  - Support policies, personnel & practices while appropriately ensuring accountability & when needed seeking changes
  - Praise publicly; criticize non-publicly
  - Evaluate based on concrete goals, outcomes & measurements
  - For day-to-day matters, refer inquiries to appropriate staff
  - Everyone gets the same information
  - Council members advocate for policies, not for persons or entities & avoid making promise requiring official action
  - Council and Manager make management non-political
  - Spokespersons should take great care
  - Be careful with electronic communication
  - Assume everything may be recorded

Several scenarios along with questions Council submitted to Attorney Smith prior to the meeting were discussed.

Comments were received from Council Members Brown, Lawler, Spicer, and French; Mayor Brown and City Manager Mitchell.

- V. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to no more than three (3) minutes. Proper decorum is required).

Comments were received from Lavada Weeks, 917 Luther Dr, Mike Bearman, 11016 29 Mile Road and City Manager Mitchell.

- VI. ADJOURNMENT

Spicer moved, Lawler supported, CARRIED, to ADJOURN Study Session. (6-0, vv).

Mayor Brown adjourned the Study Session at 9:10 p.m.

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Date

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Jill Domingo  
City Clerk

GL NUMBER	DESCRIPTION	2016 ACTIVITY	2017 ORIGINAL BUDGET	2017 ACTIVITY THRU 11/30/17	2017 PROJECTED ACTIVITY	2018 REQUESTED BUDGET	2018 MGR RECOMM'D BUDGET	2018 COUNCIL APPR'D BUDGET
Dept 000-GENERAL								
ESTIMATED REVENUES								
226-000-402.00	CURRENT PROPERTY TAXES	225,214	208,500	220,366	220,366	200,000	200,000	200,000
226-000-402.01	PROPERTY TAX CHARGEBACKS	(3,709)	(7,500)	(1,184)	(5,000)	0	0	0
226-000-410.00	DELINQUENT PERSONAL PROPERTY T	664	500	539	539	600	600	600
226-000-424.00	PAYMENTS IN LIEU OF TAXES	1,644	2,000	5,670	5,670	2,000	2,000	2,000
226-000-441.00	LOCAL COMMUNITY STABILIZATION SHAI	0	0	0	11,500	15,000	15,000	15,000
226-000-445.00	PENALTY & INTEREST ON TAXES	1,903	1,250	1,447	1,700	1,300	1,300	1,300
226-000-573.00	LOCAL COMMUNITY STABILIZATION STAR	15,690	5,750	0	0	0	0	0
226-000-590.00	LOCAL GRANTS	500	500	500	500	500	500	500
226-000-664.03	UNREALIZED GAIN ON INVESTMENT	187	250	60	50	250	250	250
226-000-665.00	INTEREST	1,443	1,250	1,467	1,675	1,250	1,250	1,250
226-000-676.00	REIMBURSEMENTS & RESTITUTIONS	(386)	500	0	0	500	500	500
	TOTAL ESTIMATED REVENUES	243,150	213,000	228,865	237,000	221,400	221,400	221,400
NET OF REVENUES/APPROPRIATIONS - 000-GENERAL								
		243,150	213,000	228,865	237,000	221,400	221,400	221,400

GL NUMBER	DESCRIPTION	2016 ACTIVITY	2017 ORIGINAL BUDGET	2017 ACTIVITY THRU 11/30/17	2017 PROJECTED ACTIVITY	2018 REQUESTED BUDGET	2018 MGR RECOMM'D BUDGET	2018 COUNCIL APPR'D BUDGET
Dept 523-LEAF PICKUP								
APPROPRIATIONS								
226-523-702.00	SALARIES AND WAGES	12,714	16,500	3,799	10,500	5,500	5,500	5,500
226-523-703.00	PART TIME WAGES	5,198	9,750	1,833	2,500	500	500	500
226-523-704.00	OVERTIME	995	250	0	750	400	400	400
226-523-714.00	MEDICARE	265	400	80	125	55	55	55
226-523-715.00	FICA	1,134	1,750	340	900	350	350	350
226-523-716.00	HOSPITALIZATION INSURANCE	5,914	9,000	1,318	5,290	2,325	2,325	2,325
226-523-717.00	LIFE INSURANCE	35	50	5	25	10	10	10
226-523-719.00	PENSION CONTRIBUTION	402	1,950	110	500	250	250	250
226-523-719.01	MERS DB CONTRIBUTION	0	0	210	550	250	250	250
226-523-720.00	WORKERS COMPENSATION	0	1,050	290	600	475	475	475
226-523-721.00	UNEMPLOYMENT INSURANCE	1	40	2	25	20	20	20
226-523-723.00	RETIREE HEALTH SAVINGS CONTRIB	266	600	73	325	150	150	150
226-523-776.00	MATERIALS AND SUPPLIES	0	400	0	450	250	250	250
226-523-900.00	PUBLISHING	0	400	0	400	400	400	400
226-523-943.00	EQUIPMENT RENTAL	25,876	17,500	5,769	12,500	9,000	9,000	9,000
FOR 2017 AND 2018, A DECISION WAS MADE TO LEAVE SOME MONEY BUDGETED IN LEAF PICKUP SINCE WE ARE UNCERTAIN AT THIS TIME WHAT COSTS MAY BE INCURRED BY THE CITY AS WE TRANSITION TO THE NEW LEAF REMOVAL PRACTICE.								
TOTAL APPROPRIATIONS		52,800	59,690	13,829	35,440	19,935	19,935	19,935
NET OF REVENUES/APPROPRIATIONS - 523-LEAF PICKUP		(52,800)	(59,690)	(13,829)	(35,440)	(19,935)	(19,935)	(19,935)

GL NUMBER	DESCRIPTION	2016 ACTIVITY	2017 ORIGINAL BUDGET	2017 ACTIVITY THRU 11/30/17	2017 PROJECTED ACTIVITY	2018 REQUESTED BUDGET	2018 MGR RECOMM'D BUDGET	2018 COUNCIL APPR'D BUDGET
Dept 524-TREE DUMP								
APPROPRIATIONS								
226-524-702.00	SALARIES AND WAGES	694	2,000	817	5,000	5,100	5,100	5,100
226-524-704.00	OVERTIME	1,637	2,500	1,462	3,500	3,575	3,575	3,575
226-524-714.00	MEDICARE	32	60	31	125	127	127	127
226-524-715.00	FICA	137	250	134	535	540	540	540
226-524-716.00	HOSPITALIZATION INSURANCE	994	1,560	1,067	3,825	3,975	3,975	3,975
226-524-717.00	LIFE INSURANCE	7	10	9	25	25	25	25
226-524-719.00	PENSION CONTRIBUTION	41	60	21	300	340	340	340
226-524-720.00	MERS DB CONTRIBUTION	0	0	198	465	535	535	535
226-524-721.00	WORKERS COMPENSATION	0	250	113	400	590	590	590
226-524-722.00	UNEMPLOYMENT INSURANCE	0	15	0	20	25	25	25
226-524-723.00	RETIREE HEALTH SAVINGS CONTRIB	47	75	46	172	175	175	175
226-524-741.00	UNIFORMS	250	250	125	200	200	200	200
226-524-802.00	CONTRACTUAL SERVICES	0	0	600	600	200	200	200
226-524-900.00	PUBLISHING	223	300	0	150	200	200	200
226-524-943.00	EQUIPMENT RENTAL	2,008	2,150	1,844	6,500	5,500	5,500	5,500
<p>FOR 2017, A SIGNIFICANT INCREASE IS BEING PROJECTED AS THE CITY PLANS TO HAVE THE TREE DUMP OPEN THE ENTIRE MONTH OF NOVEMBER TO ACCEPT RESIDENTIAL LEAVES. IT MAY OR MAY NOT BE STAFFED DEPENDING ON HOW MANY ISSUES ARE ENCOUNTERED AS RESIDENTS DUMP LEAVES.</p>								
TOTAL APPROPRIATIONS		6,070	9,480	6,467	21,817	21,107	21,107	21,107
NET OF REVENUES/APPROPRIATIONS - 524-TREE DUMP		(6,070)	(9,480)	(6,467)	(21,817)	(21,107)	(21,107)	(21,107)

GL NUMBER	DESCRIPTION	2016 ACTIVITY	2017 ORIGINAL BUDGET	2017 ACTIVITY THRU 11/30/17	2017 PROJECTED ACTIVITY	2018 REQUESTED BUDGET	2018 MGR RECOMM'D BUDGET	2018 COUNCIL APPR'D BUDGET
Dept 528-SOLID WASTE APPROPRIATIONS								
226-528-702.00	SALARIES AND WAGES	18,010	22,620	14,590	22,620	24,200	24,200	24,394
226-528-703.00	PART TIME WAGES	648	1,000	294	1,000	0	0	22,620
226-528-704.00	OVERTIME	3,335	4,700	3,650	5,500	5,500	5,500	5,500
226-528-715.00	MEDICARE	304	390	257	415	420	420	751
226-528-716.00	FICA	1,301	1,650	1,099	1,760	1,790	1,790	3,204
226-528-717.00	HOSPITALIZATION INSURANCE	8,748	10,850	7,366	10,850	11,400	11,400	11,400
226-528-718.00	LIFE INSURANCE	79	160	67	160	160	160	160
226-528-719.00	DISABILITY INSURANCE	1	75	0	0	0	0	0
226-528-719.01	PENSION CONTRIBUTION	311	1,250	293	950	1,100	1,100	1,100
226-528-720.00	MERS DB CONTRIBUTION	0	4,500	559	2,000	1,600	1,600	1,600
226-528-721.00	WORKERS COMPENSATION	0	1,050	385	1,400	2,145	2,145	2,373
226-528-723.00	UNEMPLOYMENT INSURANCE	3	60	2	40	45	45	120
226-528-744.00	RETIREE HEALTH SAVINGS CONTRIB	421	750	364	570	580	580	584
226-528-776.00	POSTAGE	0	0	125	450	400	400	400
226-528-802.00	MATERIALS AND SUPPLIES CONTRACTUAL SERVICES	0	250	0	250	250	250	250
		37,908	45,000	37,466	45,000	45,000	45,000	45,000

INCLUDES:

- \$7,000 TO COUNTY FOR ANNUAL RECYCLING CENTER COST.
- \$10,000 TO MATCH THE GENERAL FUND FOR TREE TRIMMING (CLEAN UP).
- \$10,500 FOR THE ANNUAL SUMMER CLEAN UP/RECYCLING DAY
- \$10,000 IN 2017 TO THE COUNTY FOR THE CITY SHARE OF THE COST TO DEMO HOUSES (AND A SIMILAR AMT BUDGETED IN 2018 IN CASE FUTURE DEMOLITIONS GRANTS ARE ACQUIRED).
- \$7,500 FOR EMERGENCY REMOVAL OF FIRE DAMAGED STRUCTURES AND/OR OTHER SOLID WASTE HEALTH AND SAFETY CONCERNS.

226-528-840.00	ADMINISTRATION FEES	7,500	7,725	6,438	7,725	8,035	8,035	8,035
2017 - REFLECTS A 3% INCREASE OVER PRECEDING YEAR.								
2018 - REFLECTS A 4% INCREASE OVER PRECEDING YEAR.								
226-528-900.00	PUBLISHING	0	150	224	150	150	150	150
226-528-922.00	ELECTRICITY	492	750	361	500	500	500	500
226-528-941.00	BUILDING RENTAL	6,675	6,675	5,563	6,675	6,675	6,675	6,675
226-528-943.00	EQUIPMENT RENTAL	8,549	11,500	4,300	8,500	9,000	9,000	9,000
TOTAL APPROPRIATIONS		94,285	121,105	83,403	116,515	118,950	118,950	143,816
NET OF REVENUES/APPROPRIATIONS - 528-SOLID WASTE		(94,285)	(121,105)	(83,403)	(116,515)	(118,950)	(118,950)	(143,816)

GL NUMBER	DESCRIPTION	2016 ACTIVITY	2017 ORIGINAL BUDGET	2017 ACTIVITY THRU 11/30/17	2017 PROJECTED ACTIVITY	2018 REQUESTED BUDGET	2018 MGR RECOM'D BUDGET	2018 COUNCIL APPR'D BUDGET
Dept 965-TRANSFER OUT								
APPROPRIATIONS	TRANSFER OUT	11,500	25,500	25,500	25,500	25,500	25,500	25,500
226-965-999.00								
2016:								
	\$12,500 TO GEN FUND FOR DISPOSAL OF BRUSH, GRASS, LIMBS, ETC.							
	\$10,000 TO GENERAL FUND FOR TRASH/DUMPSTERS.							
	\$1,500 FOR DPW BLDG PMT							
2017:								
	\$14,000 TO GEN FUND FOR DISPOSAL OF BRUSH, GRASS, LIMBS, ETC.							
	\$10,000 TO GENERAL FUND FOR TRASH/DUMPSTERS.							
	\$1,500 FOR DPW BLDG PMT							
2018:								
	\$14,000 TO GEN FUND FOR DISPOSAL OF BRUSH, GRASS, LIMBS, ETC.							
	\$10,000 TO GENERAL FUND FOR TRASH/DUMPSTERS.							
	\$1,500 FOR DPW BLDG PMT							
TOTAL APPROPRIATIONS		11,500	25,500	25,500	25,500	25,500	25,500	25,500
NET OF REVENUES/APPROPRIATIONS - 965-TRANSFER OUT		(11,500)	(25,500)	(25,500)	(25,500)	(25,500)	(25,500)	(25,500)
ESTIMATED REVENUES - FUND 226		243,150	213,000	228,865	237,000	221,400	221,400	221,400
APPROPRIATIONS - FUND 226		164,655	215,775	129,199	199,272	185,492	185,492	210,358
NET OF REVENUES/APPROPRIATIONS - FUND 226		78,495	(2,775)	99,666	37,728	35,908	35,908	11,042
BEGINNING FUND BALANCE		39,214	117,706	117,706	117,706	155,434	155,434	155,434
ENDING FUND BALANCE		117,709	114,931	217,372	155,434	191,342	191,342	166,476

## **City of Albion Street Project Summary**

The following information has been collected from files within the archives of the Department of Public Services by Jim Lenardson, Public Services Director.

The summary consists of 2003-2017 project years and is separated by Precinct and the total dollar amount of expenditure.

Precinct # 1. - \$ 1, 055, 300.00      2003, 2005, 2007, 2010, 2011.

Precinct # 2. - \$ 1, 516, 183.00      2003, 2005, 2008, 2013, 2015.

Precinct # 3. - \$ 922, 350.00      2005, 2010, 2013, 2015.

Precinct # 4. - \$ 850, 333.00      2003, 2007, 2011, 2014.

Precinct # 5. - \$ 1, 210, 783.00      2008, 2010, 2011, 2016, 2017

Precinct # 6. - \$ 737, 443.00      2003, 2006, 2014.

There were no street projects completed in years 2004, 2009, 2012. My suspicion is that funding was not available during this timeframe or that reserves were being saved for future projects.

**In total from 2003-2017 there has been \$ 7, 173, 803.00 spent on road repair and replacement.**

**The 2003-2017 average is \$ 597, 817.00 which includes all years with expenditures.**

Given the recent increase in Act 51 monies that are allocated to municipalities, it is hoped that we will see increased revenue for street repairs and replacements as well as budgeting for continued maintenance of existing streets.

Respectfully Submitted,

Jim Lenardson, Director of Public Services

## **CITY OF ALBION ORDINANCE 2018-1**

### **AN ORDINANCE TO AUTHORIZE MEDICAL MARIHUANA FACILITIES LICENSING AND REGULATIONS AND CREATE ARTICLE V OF CHAPTER 22 OF THE ALBION CODE OF ORDINANCES**

FINDINGS AND PURPOSE: The Michigan Legislature enacted Public Acts 281-283 of 2016 known as the Medical Marihuana Facilities Licensing Act. This Act sets forth the rules, regulations, and standards for five types of medical marihuana facilities authorized under Michigan law. In order for any of those facilities to operate within the City of Albion, the City must first enact an ordinance providing for the same. The City Council has previously authorized the licensing of four of the five allowable facilities. This ordinance outlines the standards, application process, licensing process, and penalties for violations.

THAT THE CODE OF ORDINANCES, CITY OF ALBION, MICHIGAN, IS HEREBY AMENDED BY ADDING ARTICLE V TO CHAPTER 22, WHICH READS AS FOLLOWS:

#### **CHAPTER 22, ARTICLE V: MEDICAL MARIHUANA FACILITIES**

##### **22-200. LEGISLATIVE INTENT.**

The purpose of this Chapter is to exercise the police regulatory and land use powers of the City of Albion by licensing and regulating, Grower Facilities, Safety Compliance Facilities, Processor Facilities and Secure Transporter to the extent permissible under State of Michigan and federal laws and regulations and to protect the public health, safety and welfare of the residents of the City of Albion; and as such, this Chapter constitutes a public purpose.

The City of Albion finds that the activities described in this Chapter are significantly connected to the public health, safety, security and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.

It is not the intent of this Chapter to diminish, abrogate or restrict the protections for medical use of Marihuana found in the Michigan Medical Marihuana Act or the Medical Marihuana Facilities Licensing Act.

##### **22-201. DEFINITIONS, INTERPRETATION AND CONFLICTS.**

For the purposes of this Chapter:

(A) Any term defined by the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 et seq., as amended ("MMMA") or the Medical Marihuana Facilities Licensing Act, 2016 PA 281, shall have the definition given in the MMMA, as amended, or the Medical Marihuana Facilities Licensing Act, as amended. If the

definition of a word or phrase set forth in this Chapter conflicts with the definition in the MMMA or the Medical Marihuana Facilities Licensing Act, or if a term is not defined but is defined in the MMMA or the Medical Marihuana Facilities Licensing Act, then the definition in the MMMA or the Medical Marihuana Facilities Licensing Act shall apply.

(B) Any term defined by 21 USC 860(E) referenced in this Chapter shall have the definition given by 21 USC 860(E).

(C) This Ordinance shall not limit an individual's or entity's rights under the MMMA or the Medical Marihuana Facilities Licensing Act. The MMMA and the Medical Marihuana Facilities Licensing Act supersede this Ordinance where there is a conflict between them.

(D) All activities related to Marihuana, including those related to, a Grower Facility, Secure Transporter, Processor Facility or a Safety Compliance Facility, shall be in compliance with the rules of the Medical Marihuana Licensing Board, the Michigan Department of Licensing and Regulatory Affairs or any successor agency, the rules and regulations of the City of Albion, and the MMMA and the Medical Marihuana Facilities Licensing Act.

(E) Any use which purports to have engaged in the cultivation or processing of Marihuana into a usable form, the transportation of marihuana between licensed facilities, or the testing of Marihuana either prior to or after enactment of this Chapter but without obtaining the required licensing set forth in this Chapter, shall be deemed to not be a legally established use and therefore not entitled to legal nonconforming status under the provisions of this Chapter and/or state law. The City of Albion finds and determines that it has not heretofore authorized or licensed the existence of any Medical Marihuana Facility, as defined herein, in the City of Albion.

(F) The following terms shall have the definitions given:

“Chapter” means this Chapter.

“City” means the City of Albion, Michigan.

“Council” or “City Council” means the City Council of the City of Albion, Michigan.

“Enclosed Locked Facility” means a closet, room, or other comparable, stationary, and fully enclosure, equipped with secured locks or other functioning security devices. Marihuana Plants grown outdoors are considered to be in an Enclosed Locked Facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or similar material that prevents access

by the general public and that is anchored, attached, or affixed to the ground and as defined in the MMMA.

“Grower” or “Grower Facility” means a commercial entity that cultivated, dries, trims or cures and packages Marihuana for sale to a Processor or Provisioning Center.

“License Application” refers to the requirements and procedures set forth in Sections 22-204 and 22-205.

“Marihuana Plant(s)” means any plant of the species Cannabis Sativa.

“Marihuana” means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

“Medical Marihuana Facility(ies)” means any facility, establishment and/or center that is required to be licensed under this Chapter, including a Provisioning Center, Grower, Processor, Safety Compliance Facility, and Secure Transporter.

“Ordinance” means the Ordinance adopting this Chapter.

“Person” means an individual, corporation, limited liability Company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

“Processor” or “Processor Facility” means a commercial entity that purchases Marihuana from a Grower and that extracts resin from the Marihuana or creates a Marihuana-infused product for sale and transfer in packaged form to a Provisioning Center.

“Provisioning Center” means a commercial entity that purchases Marihuana from a Grower or Processor and sells, supplies, or provides Marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning Center includes any commercial property where Marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department’s Marihuana registration process in accordance with the MMMA is not a Provisioning Center for the purposes of this Ordinance.

“Restricted/Limited Access Area” means a building, room or other area under the control of the licensee with access governed by the MMMA or other applicable state law.

“Safety Compliance Facility” means a commercial entity that receives Marihuana from a Medical Marihuana Facility or registered primary caregiver, tests it for

contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the Marihuana to the Medical Marihuana Facility.

“Secure Transporter” means a commercial entity that stores Marihuana and transports Marihuana between Medical Marihuana Facilities for a fee.

“Stakeholder” means with respect to a trust, the beneficiaries, with respect to a limited liability company, the managers or members, with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders, and with respect to a partnership or limited liability partnership, the partners, both general and limited.

“State” means the State of Michigan.

(G) Any term defined by the MMMA or the Medical Marihuana Facilities Licensing Act and not defined in this Chapter shall have the definition given in the MMMA or the Medical Marihuana Facilities Licensing Act.

### **22-203. LICENSE ALLOCATION AND ANNUAL FEES.**

(A) No Person shall operate a Grower Facility, Processor Facility, Secure Transporter, 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. The City Clerk, after approval from the City Council, shall issue the following number of licenses for medical marihuana facilities:

- |                                 |   |
|---------------------------------|---|
| a. Grower Facilities:           | 5 |
| b. Processor Facilities:        | 5 |
| c. Secure Transporters:         | 5 |
| d. Safety Compliance Facilities | 5 |

The term of each license shall be one (1) year.

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

(C) No license shall be issued by the City Clerk for the operation of a Provisioning Center within the City of Albion. Operation of a Provisioning Center within the City of Albion is expressly prohibited.

### **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 and the refundable licensee 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;

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 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 related 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 February 1, 2018, the City shall accept applications for authorization to operate a medical marihuana 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 marihuana 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 marihuana 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 February 1, 2018, whichever is later, 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.

## **22-206. LICENSES GENERALLY.**

(A) To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976

PA 442, MCL 15.231 et seq. Furthermore, no personal information concerning the applicant shall be submitted to the City Council.

(B) Licensees may transfer a license issued under this Chapter to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer a license location, the licensee must make a written request to the City Clerk indicating the current license location and the proposed license location. Upon receiving the written request, the City Clerk shall refer a copy of the written request to each of the following for approval: the Albion Department of Public Safety, the Director of Planning and Development, the Finance Director or its designee, and the City Council. No license transfer shall be approved unless each such individual or department gives written approval that the licensee and the proposed license location meet the standards identified in this Ordinance.

(C) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City Clerk. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Clerk shall consider the request as a new application for a license and the procedures set forth in this Ordinance and the Act shall be followed.

(D) Licensees shall report any other change in the information required by this Chapter to the City Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.

(E) Licensees shall comply with the Michigan Department of Licensing and Regulatory Affairs (LARA), Bureau of Medical Marihuana Regulation, Emergency Rules governing medical marihuana facilities and any permanent rules promulgated by LARA following the expiration of the Emergency Rules.

#### **22-207. PROVISIONING CENTERS PROHIBITED.**

(A) Provisioning Centers are expressly prohibited from operating within the City of Albion.

#### **22-208. MINIMUM OPERATIONAL STANDARDS OF GROWER FACILITY.**

The following minimum standards for a Grower Facility shall apply:

(A) The Grower Facility shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(B) The premises shall be open for inspection upon probable cause that a violation of this Chapter has occurred during the stated hours of operation and at such other times as anyone is present on the premises.

(C) Any Grower Facility shall maintain a log book and/or database indicating the number of Marihuana Plants. Each Marihuana Plant will be tagged as required by the MMMA and Medical Marihuana Facilities Licensing Act.

(D) All Marihuana shall be contained within an Enclosed Locked Facility. All operations shall be conducted within the facility so as not to be exposed to the public and all operations are expressed prohibited from being conducted outside the facility or outdoors.

(E) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the Grower, growing or harvesting of Marihuana are located.

(F) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Albion Department of Public Safety to ensure compliance with the Michigan Fire Protection Code.

(G) The dispensing of Marihuana at the Grower Facility shall be prohibited.

(H) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to: 1. Maintaining adequate personal cleanliness; 2. Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hands may have become soiled or contaminated; 3. Refraining from having direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.

(I) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.

(J) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

(K) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.

(L) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.

(M) Each Grower Facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

(N) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

(O) The Grower Facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.

(P) Exterior signage or advertising identifying the facility as a Grower Facility shall be prohibited.

(Q) Odor Control – No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. A grower or processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

a. A plan for ventilation of the medical marihuana facility that describes the ventilation systems that will be used to prevent any odor of medical marihuana off the premises of the business. For medical marihuana facilities that grow medical marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marihuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

b. Cultivated, produced, or distributed by a medical marihuana business. A medical marihuana business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marihuana business or at any adjoining use or property.

c. Sufficient measures and means of preventing smoke, odor, debris, dust, fluids and other substances from exiting a marihuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana commercial entity, the owner of the

subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

## **22-209. MINIMUM OPERATIONAL STANDARDS OF SAFETY COMPLIANCE FACILITY.**

The following minimum standards for the Safety Compliance Facility shall apply:

(A) The Safety Compliance Facility shall comply at all times and in all circumstances with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(B) Consumption and/or use of Marihuana shall be prohibited at the facility.

(C) The premises shall be open at all times to any Michigan Medical Marihuana Licensing Board investigators, agents, auditors, or the State Police, without a warrant and without notice to the licensee, 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 Medical Marihuana Facilities;
2. To inspect, examine and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fail 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.

(D) Any Safety Compliance Facility shall maintain a log book and/or database which complies with the MMMA and Medical Marihuana Facilities Licensing Act or applicable state laws.

(E) All Marihuana shall be contained within the building in an Enclosed Locked Facility in accordance with the MMMA, as amended, and Medical Marihuana Facilities Licensing Act or applicable state laws. All operations shall be conducted within the facility so as not to be exposed to the public and all operations are expressed prohibited from being conducted outside the facility or outdoors.

(F) There shall be no other accessory uses permitted within the same facility other than those associated with testing Marihuana.

(G) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty.

(H) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.

(I) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

(J) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.

(K) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

(L) Exterior signage or advertising identifying the facility as a Safety Compliance Facility shall be prohibited.

## **22-210. MINIMUM OPERATIONAL STANDARDS OF PROCESSOR FACILITY.**

The following minimum standards for the Processor Facility shall apply:

(A) The Processor Facility shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.

(B) Consumption and/or use of Marihuana shall be prohibited at the Processor Facility.

(C) All activity related to the Processor Facility shall be done indoors.

(D) The premises shall be open at all times to any Michigan Medical Marihuana Licensing Board investigators, agents auditors, or the State Police, without a warrant and without notice to the licensee, 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 21 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 Medical Marihuana Facilities;
2. To inspect, examine and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fail 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.

(E) Any Processor Facility shall maintain a log book and/or database which complies with the MMMA, as amended, and Medical Marihuana Facilities Licensing Act or applicable state laws.

(F) All Marihuana will be tagged as required by the MMMA, the Medical Marihuana Facilities Licensing Act or applicable state laws.

(G) All Marihuana shall be contained within an Enclosed Locked Facility in accordance with the MMMA, as amended. All operations shall be conducted within the facility so as not to be exposed to the public and all operations are expressed prohibited from being conducted outside the facility or outdoors.

(H) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing of Marihuana are located.

(I) That portion of the structure where the storage of any chemicals shall be subject to inspection and approval by the Albion Department of Public Safety to insure compliance with the Michigan Fire Protection Code.

(J) The dispensing of medical Marihuana at the Processor Facility shall be prohibited.

(K) All persons working in direct contact with Marihuana shall conform to hygienic practices while on duty, including but not limited to:

1. Maintaining adequate personal cleanliness;
2. Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hands may have become soiled or contaminated;
3. Refraining from having direct contact with Marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.

(L) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed.

(M) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

(N) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.

(O) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.

(P) Each Processor Facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

(Q) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

(R) The Processor Facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.

(S) The Processor Facility shall produce no products other than usable Marihuana intended for human consumption.

(T) Exterior signage or advertising identifying the facility as a Processor Facility shall be prohibited.

(U) Odor Control – No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. A grower or processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

- i. A plan for ventilation of the medical marihuana facility that describes the ventilation systems that will be used to prevent any odor of medical marihuana off the premises of the business. For medical marihuana facilities that grow medical marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marihuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
- ii. Cultivated, produced, or distributed by a medical marihuana business. A medical marihuana business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marihuana business or at any adjoining use or property.
- iii. Sufficient measures and means of preventing smoke, odor, debris, dust, fluids and other substances from exiting a marihuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

## **22-211. MINIMUM OPERATIONAL STANDARDS FOR A SECURE TRANSPORTER**

The following minimum standards for a Secure Transporter shall apply:

- (A) A Secure Transporter shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (B) Each driver transporting marihuana shall have a valid chauffeur's license issued by the State of Michigan;
- (C) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana;
- (D) A route plan and manifest shall be carried in the transporting vehicle and presented to a law enforcement officer upon request;
- (E) The marihuana being transported shall only be transported in 1 or more sealed containers and not be accessible while in transit.
- (F) A Secure Transporter shall not bear marking or other indication that it is carrying marihuana or a marihuana-infused product.
- (G) A Secure Transporter shall be subject to administrative inspection by a law enforcement officer, including but not limited to the Albion Department of Public Safety, at any point during the transportation of marihuana in the City of Albion to determine compliance with this Ordinance and the Medical Marihuana Facilities Licensing Act.

**22-212. LOCATION OF GROWER FACILITY, SAFETY COMPLIANCE FACILITY, PROCESSOR FACILITY AND SECURE TRANSPORTER.**

- (A) No Grower Facility, Safety Compliance Facility, Processor Facility 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 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 one-thousand (500) feet of real property comprising a public park shall be surrounded by a fence as required by city ordinance.
- (C) No Grower Facility, Safety Compliance Facility, Processor Facility 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 one-thousand (1000) feet of real property comprising a place of religious worship shall be surrounded by a fence as required by city ordinance.

- (D) 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 shall be limited to B-3, M-1-P, M-2, and M-2-P Zoning Districts.

## **22-213. DENIAL AND REVOCATION.**

(A) A license issued under this Chapter may be revoked after an administrative hearing at which the City Clerk determines that any grounds for revocation under Subsection (B) exists. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of the license at least five (5) days prior to the hearing, by first class mail to the address given on the License Application or any address provided pursuant to this Ordinance.

(B) A license applied for or issued under this Chapter may be denied or revoked on any of the following basis:

1. Violation of this Chapter;
2. Any conviction of or release from incarceration for a felony under the laws of this State, or any other State, or the United States, within the past five (5) years by the applicant or any Stakeholder of the applicant as measured from the date of the application or the date of becoming a Stakeholder, whichever occurs later, or while licensed under this Chapter; or any conviction of a substance-related felony by the applicant or any Stakeholder of the applicant whenever or while licensed under this Chapter;
3. Commission of fraud or misrepresentation or the making of a false statement by the applicant or any Stakeholder of the applicant while engaging in any activity for which this Chapter requires a license;
4. Sufficient evidence that the applicant(s) lack, or have failed to demonstrate the requisite professionalism and/or business experience required to assure strict adherence to this Chapter and the rules and regulations governing the Medical Marihuana Program in the State of Michigan;
5. The Medical Marihuana Facility is determined by City of Albion to have become a public nuisance;

6. The Michigan Medical Marihuana Licensing Board has denied, revoked or suspended the applicant's State License.

#### **22-214. PENALTIES AND DISCIPLINE.**

(A) The City of Albion may require an applicant or holder of license of a Medical Marihuana Facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Chapter. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.

(B) Any Person in violation of any provision of this Chapter or any provision of a license issued under this Chapter, is responsible for a misdemeanor, punishable by a fine of up to \$500.00 plus costs of prosecution, ninety (90) days imprisonment, or both, for each violation. This section is not intended to prevent enforcement of any provision of the state law by the Albion Department of Public Safety.

(C) All fines imposed under this Chapter shall be paid within forty-five (45) days after the effective date of the order imposing the fine or as otherwise specified in the order;

(D) The City Clerk may temporarily suspend the Medical Marihuana Facility license without a hearing if the City Clerk finds that public safety or welfare requires emergency action. The City Clerk shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a hearing.

(E) If the City Clerk temporarily suspends a license without a hearing, the holder of the license is entitled to a hearing within thirty (30) after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice.

(F) If the City Clerk does not hold a hearing within thirty (30) days after the date of suspension was issued, then the suspended license shall be automatically reinstated and the suspension vacated.

(G) In addition to any other remedy available at law, the City of Albion may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

This Ordinance shall take effect March 19, 2018 after publication.

First Reading:  
February 5, 2018

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_

Second Reading & Adoption:  
February 19, 2018

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Absent \_\_\_\_\_

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Jill Domingo,  
City Clerk

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Garrett Brown,  
Mayor

DRAFT