

ALPENA CITY COUNCIL MEETING

December 20, 2021 – 6:00 p.m.

AGENDA

The Meeting Will be Held In-Person at City Hall. The Meeting Can Be Viewed Virtually with the Login Information as Follows:

From a Computer, Tablet or Smartphone: <https://www.gotomeet.me/CityofAlpena>

Dial in Using a Phone: United States: [+1 \(646\) 749-3112](tel:+16467493112)

Access Code: 667-050-061

1. Call to Order.
2. Pledge of Allegiance.
3. Approval and Modification of the Agenda.
4. Approve Minutes – Regular and Closed Sessions of December 06, 2021.
5. Citizens Appearing Before Council on Agenda and Non-Agenda Items (Citizens Shall be Allowed a Maximum of Five (5) Minutes Each to Address Their Concerns. This is the Only Time During a Council Meeting that Citizens are Allowed to Address the Council).
6. Public Input Session.
Possible Elimination of Fluoride in the Drinking Water Production Process.
7. Consent Agenda.
 - A. Bills to be Allowed, in the Amount of \$1,398,869.08.
 - B. Approval of a Budget Amendment Request to Move \$500 from the Planning Department and \$500 from the Zoning Department to the Code Enforcement Budget, which is Over Budget.
 - C. Approval to Not Execute the Contract with Weinkauff Plumbing & Heating, Inc. as Approved at the December 06, 2021, Meeting for City-wide Boiler Inspections.
8. Presentations.
City-Wide Pride Program – Kathy Himes, Human Resources Director.
9. Announcements.
10. Mayoral Proclamation.
11. Report of Officers.
 - A. Perpetual Lot Care Fund Recommendation – Rachel Smolinski, City Manager.
 - B. Council Compensation Recommendation – Rachel Smolinski, City Manager.
 - C. Second Reading of Ordinance 21-467 Which Amends Chapter 18, Section 18-1 of the Medical Marihuana Facilities and Adult-Use Marihuana Establishments – Bill Pfeifer, City Attorney.

D. First Reading of Ordinance 21-468 Which Amends the City of Alpena Zoning Ordinance Article 10 – Bill Pfeifer, City Attorney.

12. Communications and Petitions.

Change Traffic Controls for Pedestrian Crosswalks at the Intersections of First Avenue at both Water Street and Park Place – Jessica Luther, Assistant Director of the Alpena County George N. Fletcher Public Library.

13. Unfinished Business.

14. New Business.

A. Changes to CPS 21 Guidelines for Poverty Exemption – Allan Berg, Assessor.

B. Building Official Contract – Kathy Himes, Human Resources Director.

C. Security Improvements – Stephen Shultz, City Engineer.

15. Adjourn to Closed Session to Discuss Attorney-Client Communication Regarding Potential Sale/Use of City Property.

16. Adjourn to Open Session.

17. Adjourn.

Rachel Smolinski
City Manager

COUNCIL PROCEEDINGS

December 06, 2021

The Municipal Council of the City of Alpena met in regular session in person on the above date and was called to order at 6:00 p.m. by the Mayor.

Present: Mayor Waligora, Mayor Pro Tem Johnson, Councilmembers Nowak, Mitchell and Osmer.

Absent: None.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Osmer, to approve the agenda.

Motion carried 5-0.

MINUTES

The minutes of the regular session of November 15, 2021, was approved as printed.

Motion carried 5-0

CONSENT AGENDA

Moved by Councilmember Nowak, seconded by Mayor Pro Tem Johnson, that the following Consent Agenda items be approved:

- A. Bills to be allowed, in the amount of \$631,763.68.
- B. Approval of consulting services for the ARPA grant.
- C. Council appointment of Nickolas Lee to the Recreational Advisory Board for a three-year term expiring on December 01, 2024.
- D. Approval of the 2022 Council meeting schedule.
- E. Approval of the Memorial Day, Fourth of July and Christmas parades held

- within the city limits in 2022.
- F. Approval of a budget amendment request to reduce General Fund balance by \$11,322 due to the discovery of a budget error.
 - G. Approval of a budget amendment request to increase General Fund balance by \$22,662 due to the personal property tax reimbursement being higher than budgeted and to amend the budget after a review of the October monthly financial reports.
 - H. PA 152 insurance opt-out.
 - I. Alpena County Youth and Recreation Grant agreement for Culligan Plaza.
 - J. Economic development administration grant application submittal and resolutions.

Motion carried 5-0.

PROPERTY AND LIABILITY INSURANCE RECOMMENDATION

Moved by Councilmember Nowak, seconded by Mayor Pro Tem Johnson, to award the Property and Liability bid to the Michigan Municipal League for an annual premium of \$139,948.

Motion carried 5-0.

ORDINANCE 21-465

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Mitchell, to adopt ordinance 21-465.

Motion carried 5-0.

ORDINANCE 21-466

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Nowak, to adopt ordinance 21-466.

Motion carried 5-0.

ORDINANCE 21-467

Attorney Pfeifer delivered the first reading of ordinance 21-467, which amends chapter 18, section 18-1, of the medical marihuana facilities and adult-use marihuana

establishments.

COSTS AND VOTER TURNOUT OF THE NOVEMBER ELECTION

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Mitchell, to receive and file the report of costs and voter turnout of the November 2, 2021 election, as presented.

Motion carried 5-0.

PRESENTATION ON FLUORIDE IN WATER

A representative of the SUEZ Engineering Department and Technical Services delivered a presentation, which was a study to discontinue fluoridation and action items. The next step will be to distribute information to the public.

CITY-WIDE BOILER INSPECTION BID

Bids were received and opened on November 15, 2021, for the city-wide boiler inspections. The bid received is as follows:

<u>Description</u>	<u>Units</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
City Hal Mechanical Room (two units)	\$/year	\$160	\$165	\$170
Public Safety Boilers Room (two units)	\$/year	\$160	\$165	\$170
Second Ave Bridge House	\$/year	\$80	\$83	\$85
Wastewater Treatment Plant Mechanical Room (two units)	\$/year	\$160	\$165	\$170
Wastewater Treatment Plant Steam Boiler	\$/year	\$80	\$83	\$85
Woodward Trailhead Boiler	\$/year	\$120	\$124	\$128

Moved by Councilmember Nowak, seconded by Councilmember Osmer, to award the city-wide boiler inspection contract to Weinkauff Plumbing & Heating Inc. at

the prices listed above.

Motion carried 5-0.

BAGGED LEAF AND LAWN MATERIAL PICK UP BID

<u>Current Bid</u>	<u>Per Pick Up Cost - 4 per year</u>		
	2022	2023	2024
A-1 Tree Service, Alpena	\$10,100	\$10,100	\$10,100
Total per year	\$40,400	\$40,400	\$40,400

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Nowak, to award the contract for leaf pick up to A-1 Tree Service for the listed prices for 2022, 2023 and 2024.

Motion carried 5-0.

RECESS

The Municipal Council recessed from 7:18 p.m. to 7:20 p.m.

RECONVENE IN CLOSED SESSION

Moved by Councilmember Nowak, seconded by Mayor Pro Tem Johnson, to reconvene in closed session for attorney/client discussion of the sale of city-owned property located at US-23 North.

Motion carried 5-0.

RECONVENE IN OPEN SESSION

The Municipal Council reconvened in open session at 7:49 p.m.

SALE OF CITY-OWNED PROPERTY LOCATED AT US-23 NORTH

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Nowak, to approve, as written, the purchase and sale agreement between GT Equities LLC and

the City of Alpena, and authorize Mayor Waligora to sign on behalf of the City.

Motion carried 5-0.

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Mitchell, to approve the buy and sell agreement between PCI and the City of Alpena with two modifications: (1) requirement that the City provide, at the City's expense, a survey within 30 days of the date this agreement is signed under section 5 would be removed; and (2) the date for the written acceptance offer will be extended under paragraph 24 from December 1, 2021, to December 10, 2021, and to authorize Mayor Waligora to sign on behalf of the City.

Motion carried 5-0.

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Osmer, to approve, as written, the agreement between WSSA LLC and the City of Alpena, for the purchase and sale of the property noted in the agreement with one change: the City would reserve the discretion to move the proposed three acre site from the north side of North Industrial Highway, as presented in the purchase and sale agreement, to the south side of North Industrial Highway and further, once again, that Mayor Waligora would have the authority to sign on behalf of the City of Alpena.

Motion carried 5-0.

ADJOURN

On motion of Councilmember Nowak, seconded by Mayor Pro Tem Johnson, the Municipal Council adjourned at 7:53 p.m.

Matthew Waligora
Mayor

ATTEST:

Anna Soik
City Clerk

INVOICE REGISTER

Page: 1/3

EXP CHECK RUN DATES 12/21/2021 - 12/21/2021

UNJOURNALIZED

OPEN - CHECK TYPE: PAPER CHECK

VENDOR	INVOICE #	DESCRIPTION	AMOUNT
AIRGAS USA LLC	9120011561	SUPPLIES - EMS DISP	78.90
AIRGAS USA LLC	91200114789	SUPPLIES - EMS DISP	44.45
AIRGAS USA LLC	9984338833	VEH MAINT - EQ	70.29
ALPENA AREA CHAMBER OF COMM	21573	GMDA TICKETS	40.00
ALPENA COUNTY TREASURER	121021	IT CONTRACTED SVCS 12/21	8,118.00
ALPENA DIESEL SERVICE	71275	VEH MAINT - EQ	121.65
ALPENA DIESEL SERVICE	71350	VEH MAINT - EQ	98.81
ALPENA POWER COMPANY	122121	ELECTRIC	30,942.89
ALPENA POWER COMPANY	122121	ELECTRIC - DDA	50.21
ALPENA SUPPLY CO	S100381156.001	CHEMICALS - SEWAGE	898.00
AMAZON CAPITAL SERVICES INC	1KJP-V1X3-HW1M	MAINT - FIRE/EMS	31.43
BALL TIRE & GAS INC	200515	VEH MAINT - POLICE	20.00
BALL TIRE & GAS INC	200710	VEH MAINT - EQ	20.00
BALL TIRE & GAS INC	201049	VEH MAINT - EQ	569.08
BALL TIRE & GAS INC	201179	VEH MAINT - FIRE EQ	20.00
BALL TIRE & GAS INC	201304	VEH MAINT - POLICE	729.80
BALL TIRE & GAS INC	201413	VEH MAINT - POLICE	72.48
BELL EQUIPMENT COMPANY	P03782	VEH MAINT - EQ	1,246.18
BELL EQUIPMENT COMPANY	P04049	VEH MAINT - EQ	945.97
BOUND TREE MEDICAL LLC	84303661	SUPPLIES - EMS DISP	231.45
BOUND TREE MEDICAL LLC	84305512	SUPPLIES - EMS DISP	1,232.75
BOUND TREE MEDICAL LLC	84314969	SUPPLIES - EMS DISP	411.60
BP	61215277	GAS/FUEL - FIRE/EMS/EQ	3,582.28
BRUCE TILLINGER	113021	MECHANICAL INSP SVCS 11/21	1,896.00
BRUCE TILLINGER	113121A	PLUMBING INSP SVCS 11/21	863.20
BUILDERS FIRST SOURCE	56027932	TRAFF CONTROL MAINT - MAJ ST	59.99
CARQUEST AUTO PARTS	446967	VEH MAINT - EQ	60.70
CARQUEST AUTO PARTS	447002	VEH MAINT - EMS	3.14
CARQUEST AUTO PARTS	447004	VEH MAINT - EQ	4.91
CARQUEST AUTO PARTS	4610534	VEH MAINT - EQ	0.10
CARQUEST AUTO PARTS	447022	VEH MAINT #42	129.12
CARQUEST AUTO PARTS	447093	VEH MAINT - EMS	3.14
CARQUEST AUTO PARTS	447094	VEH MAINT - EQ	48.03
CARQUEST AUTO PARTS	447230	VEH MAINT - EQ	29.00
CARQUEST AUTO PARTS	447532	VEH MAINT - EQ	82.68
CARQUEST AUTO PARTS	447543	VEH MAINT - EQ	17.49
CARQUEST AUTO PARTS	447669	VEH MAINT - EQ	41.61
CARQUEST AUTO PARTS	447723	VEH MAINT #38	43.04
CARQUEST AUTO PARTS	447724	VEH MAINT - EQ	43.04
CARQUEST AUTO PARTS	447753	VEH MAINT - EQ	45.08
CARQUEST AUTO PARTS	447791	VEH MAINT #36	43.04
CARQUEST AUTO PARTS	447898	VEH MAINT - EQ	4.40
CARQUEST AUTO PARTS	448001	SUPPLIES - FIRE/EMS	9.74
CARQUEST AUTO PARTS	448074	VEH MAINT - FIRE EQ	85.32
CARQUEST AUTO PARTS	448091	VEH MAINT - EQ	21.68
CARQUEST AUTO PARTS	448377	VEH MAINT - POLICE	12.87
CARQUEST AUTO PARTS	448499	VEH MAINT - POLICE	13.75
CARQUEST AUTO PARTS	448505	VEH MAINT - POLICE	28.50
CARQUEST AUTO PARTS	4627210	VEH MAINT - EQ	(0.03)
CDW GOVERNMENT INC	M867857	SUPPLIES - IT	200.00
CDW GOVERNMENT INC	P199885	SUPPLIES - IT	900.00
CHARTER COMMUNICATIONS	0015914120521	WATER TWR INTERNET SIGNALS	607.88
CHARTER TOWNSHIP OF ALPENA	121421	REIMB GARAGE NATURAL GAS - FIRE/EMS	45.73
CONTINENTAL LINEN SERVICE	70483 11/21	RUG/UNIFORM CONT 11/21	860.04
DE LAGE LANDEN FINANCIAL SERVICES	74657705	COPIER LEASE 12/21 - DDA	56.55
DENNIS MAYO	121021	SEWER/WATER BILL REFUND	205.54
DOUGLAS KRUEGER	092421	TRAVEL EXPENSE - EMS	20.72
DOUGLAS KRUEGER	120521	MEAL REIMB - EMS	182.11
DTE ENERGY	122121	NATURAL GAS	13,057.50
DTE ENERGY	122121	NATURAL GAS - DDA	101.84
DUANE REDLAWSK	AP21-2049C	AMBULANCE REFUND	50.00
EAGLE SUPPLY CO	120606	SUPPLIES - PUBLIC WORKS	112.20
EAGLE SUPPLY CO	120607	SUPPLIES - PARKS	24.20
EAGLE SUPPLY CO	120608	SUPPLIES - PUBLIC WORKS	58.50
EAST GRAND LAKE FIRE DEPT	121621	REFUND MFR TUITION/BOOKS - FIRE/EMS	635.00
EVERETT GOODRICH TRUCKING	HMA 2021-04	HMA PATCHING 2021	27,723.46
F.D. LAKE COMPANY	311115	VEH MAINT - EQ	685.63
FASTENAL COMPANY	MIALP188391	SUPPLIES - FIRE/EMS	135.66
FASTENAL COMPANY	MIALP188512	VEH MAINT - EQ	20.34
FITZPATRICK'S HARDWARE	5377590	SUPPLIES - FIRE/EMS	13.99
FITZPATRICK'S HARDWARE	5378351	SUPPLIES - MARINA	12.00
FRANCIS ROSINSKI	123021	ELECTRICAL INSP SVCS 11/21	812.80

INVOICE REGISTER

Page: 2/3

EXP CHECK RUN DATES 12/21/2021 - 12/21/2021

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VENDOR	INVOICE #	DESCRIPTION	AMOUNT
FRANKS KEY & LOCK SHOP INC	43877	SUPPLIES - PARKS	7.00
FRANKS KEY & LOCK SHOP INC	43713	MAINT - PARKS	32.00
FREESE HYDRAULICS & EQUIP REPAIR	40309	VEH MAINT - EQ	9.36
FREESE HYDRAULICS & EQUIP REPAIR	40330	VEH MAINT - EQ	33.00
FREESE HYDRAULICS & EQUIP REPAIR	40338	VEH MAINT - EQ	912.98
FREESE HYDRAULICS & EQUIP REPAIR	40384	VEH MAINT - EQ	250.67
FRONTIER	2793 01/22	TELEPHONE - POL/FIRE/EMS	109.73
FRONTIER	4175 12/21	TELEPHONE - FIRE/EMS	40.88
FRONTIER	5445 12/21	TELEPHONE - FIRE/EMS	78.60
FRONTIER	7204 12/21	ELEVATOR TELEPHONE - CITY HALL	58.16
FRONTIER	7430 12/21	ELEVATOR TELEPHONE - PUBLIC SAFETY	58.16
FRONTIER	9535 12/21	ALARM PHONE LINES - SEWER	688.08
GALLS LLC	019819628	UNIFORMS - FIRE/EMS	244.99
GALLS LLC	019849159	SUPPLIES - POLICE	112.09
GFL ENVIRONMENTAL	0052272200	DUMPSTER CHARGES 10/21	22.58
GFL ENVIRONMENTAL	0052990071	DUMPSTER CHARGES 10-11/21	1,148.10
GIAMARCO MULLINS & HORTON PC	37	ATTY FEES - GENERAL	2,382.75
HALLS SERV-ALL	113021	RENTAL FEE - PARKS	959.38
INK AND TONER ALTERNATIVE	21-8051	SUPPLIES - IT	249.99
INTERSTATE BATTERY MID MICHIGAN	23426554	VEH MAINT - EQ	602.50
INTERSTATE BATTERY MID MICHIGAN	23426793	VEH MAINT - POLICE	255.00
INTERSTATE BATTERY MID MICHIGAN	23426794	VEH MAINT - EQ	95.50
JAMES DESSENBERG	AP21-2370C	AMBULANCE REFUND	95.24
JASON ZASKE	120321	SAFETY SHOE/WORK APPAREL ALLOW - MAI	286.18
JCI JONES CHEMICALS INC	869938	SODIUM HYPOCHLORITE - WATER	4,277.10
JENNIFER BERANT	121421	TUITION/BOOK REIMB/CONTRACT INCEN - CI	881.25
JUNE KINGSLEY	AP21-2994C	AMBULANCE REFUND	120.19
KCI	305210	POSTAGE/TAX MAILING SVCS	3,019.60
KENDALL ELECTRIC INC	S110563109.001	MAINT - LIGHTS	640.54
KENDALL ELECTRIC INC	S110932969.001	MAINT - LIGHTS	47.36
KENDALL ELECTRIC INC	S110999441.001	MAINT - LIGHTS	41.85
KONICA MINOLTA BUSINESS SOLUTIONS	277010812	COPIER MAINT - IT	97.45
MERIDIAN HEALTH	AP21-0412C	AMBULANCE REFUND	697.06
MICHIGAN STATE POLICE	551-592857	SOR REGISTRATION - POLICE	60.00
MID MICHIGAN HEALTH	700000774 12/21	EMPLOYEE PHYS - PLANNER	75.00
MID MICHIGAN MEDICAL CENTER-ALPENA	567	SUPPLIES - EMS DISP	685.00
MILLER OFFICE MACHINES	AR17435	COPIER MAINT - CH/PSF	742.91
NEMCOG	03-717-210422	GIS SERVICES - IT	1,556.31
NEW DIRECTIONS	19672	EMP ASST PROGRAM 12/21-05/22	1,600.00
NORTHERN CLEANING & MAINTENANCE	120121	MAINT - DDA	80.00
NYE UNIFORM COMPANY	796771	UNIFORMS - POLICE	139.00
OFFICE DEPOT	20353608	SUPPLIES - CITY HALL	458.25
OVERHEAD DOOR CO OF ALPENA INC	60970	BLDG MAINT - POLICE	401.36
PNC FINANCIAL SERVICES GROUP	112321	ANNUAL CITY RETIREMENT CONTRIBUTION	1,072,812.00
PRESQUE ISLE ELECTRIC & GAS CO	81166373 1121	ELECTRIC - AIR BASE	38.52
ROGER A DORR	2046	COURT SERVICES/SUMMONS	46.88
ROWLEYS WHOLESALE	1277990-00	VEH MAINT - EQ	844.84
SHI INTERNATIONAL CORP.	B14410595	SUPPLIES - IT	142.79
SHI INTERNATIONAL CORP.	B14456968	SUPPLIES - IT	458.93
SOLUCIENT SECURITY SYSTEMS	497290	MAINT - PUBLIC WORKS	101.19
STANDARD ELECTRIC CO	4048454-00	TRAFF SIGNAL MAINT - MAJ ST	15.30
STANDARD ELECTRIC CO	4049321-00	MAINT - LIGHTS	106.40
STANDARD ELECTRIC CO	4049326-00	MAINT - LIGHTS	13.93
STANDARD ELECTRIC CO	405143-00	MAINT - LIGHTS	19.22
STANDARD ELECTRIC CO	4050155-00	MAINT - LIGHTS	36.93
STANDARD ELECTRIC CO	4050438-00	MAINT - LIGHTS	170.21
STANDARD ELECTRIC CO	4050535-00	MAINT - LIGHTS	67.94
STANLEY BARTREAU	AP21-1397	AMBULANCE REFUND	273.88
STATE OF MICHIGAN	MIDEAL-44/22	EXTENDED PURCHASING FEE	180.00
STATE OF MICHIGAN	491-401384	QUALITY ASSURANCE ASSESSMENT PROG -	2,810.65
STEVEN HALL	120321	TRAVEL EXPENSE - BLDG INSP	17.31
SUEZ WATER ENVIRONMENTAL SERVICES	202144160	CONT OPERATIONS 11/21	130,101.45
SUEZ WATER ENVIRONMENTAL SERVICES	202144275	CONT OPERATIONS 11/21	38,453.40
SUPERIOR IMAGE CLEANING	120221	CITY CUSTODIAL SERVICES	2,855.56
TELEFLEX LLC	9504783189	SUPPLIES - EMS DISP	669.49
TELNET WORLDWIDE	235307	TELEPHONE	353.88
TEMPEST ENTERPRISES LLC	7344	LIFT STATION ALARMS	2,520.00
TERMINAL SUPPLY CO	91948-00	VEH MAINT - EQ	193.00
THE ALPENA NEWS	100087	PUBLISHING/ADVERTISING	97.40
THE ALPENA NEWS	10086	PUBLISHING/ADVERTISING	731.22
THE ALPENA NEWS	100109	PUBLISHING/ADV	70.00
THUNDER BAY ELECTRIC INC	230579	MAINT - LIGHTS	604.08

INVOICE REGISTER

Page: 3/3

EXP CHECK RUN DATES 12/21/2021 - 12/21/2021

UNJOURNALIZED

OPEN - CHECK TYPE: PAPER CHECK

VENDOR	INVOICE #	DESCRIPTION	AMOUNT
THUNDER BAY ELECTRIC INC	230580	MAINT - XMAS LIGHTS	3,319.76
THUNDER BAY ELECTRIC INC	230591	TRAFF SIGNAL MAINT - MAJ ST	18.24
THUNDER BAY ELECTRIC INC	230666	MAINT - LIGHTS	285.03
THUNDER BAY ELECTRIC INC	230667	MAINT - MAJ ST	2,010.00
TRUE NORTH RADIO NETWORK	21110392	ADVERTISING - DDA	300.00
VISA/ELAN FINANCIAL SERVICES	1418 12/21	SUPP/PHONE - MARINA	344.89
VISA/ELAN FINANCIAL SERVICES	2432 12/21	TRAINING REG/DUES - COUNCIL/CLERK	135.00
VISA/ELAN FINANCIAL SERVICES	4503 12/21	GAS/FUEL - EQ	241.37
VISA/ELAN FINANCIAL SERVICES	5087 12/21	MEMBERSHIP DUES/LOG-IN - MGR	160.89
VISA/ELAN FINANCIAL SERVICES	5279 12/21	SUPPLIES - POLICE	79.99
VISA/ELAN FINANCIAL SERVICES	6116 12/21	TR EXP/SUPP/MAINT/FOOD/SERV-FIRE/EMS	627.04
VISA/ELAN FINANCIAL SERVICES	7299 12/21	TRAINING REG - PLANNER	800.00
VISA/ELAN FINANCIAL SERVICES	7661 12/21	MBR DUES/MAINT - CLK/STARLITE	2,841.75
VISA/ELAN FINANCIAL SERVICES	3610 12/21	SUPPLIES - DDA	26.82
WEX BANK/SHELL	76540615	GAS/FUEL-SUEZ	445.06
WEX BANK/SPEEDWAY	76377553	GAS/FUEL-POL/FIRE/EMS/EQ/SUEZ	7,886.24
WILSON TOWNSHIP	121621	REFUND MFR TUITION/BOOKS - FIRE/EMS	500.00
Total:			1,398,869.08

BUDGET AMENDMENT REQUEST

FUND: 101 - General
 DEPARTMENT: 701 - Planning, 702 - Zoning, 703 - Code Enforcement
 PROJECT: _____

Account No.	Account Description	Current Budget	Proposed Increase or (Decrease)	Proposed Budget
101-701-727.000	Supplies	1500	(\$500)	\$1,000
101-702-727.000	Supplies	1500	(\$500)	\$1,000
101-703-801.000	Prof. & Contractual	\$3,000	\$615	\$3,615
101-703-900.000	Printing & Publishing	1000	\$385	\$1,385

Justification for Budget Amendment

To move budget from Planning and Zoning departments into Code Enforcement which is over budget. Net effect to budget is zero.

Michigan Uniform Accounting and Budget Act:

- ** Requires budget amendments before any expenditures exceed the budget.
- ** The City Manager and City Clerk/Treasurer/Finance Director are authorized by the Municipal Council to make budgetary transfers within the departments established through this budget. All transfers between departments or funds or from fund balance may be made only by further action of the Municipal Council.

Monte L Birmingham 12/14/21
 Department Head Date

Anna Soik 12/13/21
 Clerk/Treasurer Date

Rachael Smolenski 12/15/21
 City Manager Date

 City Council Date


Memorandum



Date: December 15, 2021

To: Mayor and City Council Members

Copy: Rachel Smolinski, City Manager
Anna Soik, City Clerk/Treasurer/Finance Director

From: Stephen Shultz, City Engineer 

Subject: City Wide Boiler Inspections

At the December 6, 2021 Council Meeting, City Council approved the request to execute a contract with Weinkauf Plumbing & Heating, Inc. for the City Wide Boiler Inspection.

At the same meeting, Council also approved a contract with Michigan Municipal League for property and liability insurance. Boiler inspections by certified technicians are included with the coverage offered by MML, therefore, there is not a need for a separate contracted service.

I contacted Weinkauf Plumbing & Heating, Inc. to inform them that we may not execute the contract for the reasons indicated above. They had no issues and indicated that they had the same communication from a few other past clients.

In consideration of the above, staff feels that it is in the best interest of the City not to execute the Contract for city wide boiler inspections with Weinkauf Plumbing & Heating, Inc.



Memorandum



Date: December 20, 2021

To: Mayor Waligora and Municipal Council

Copy: Anna Soik, City Clerk/Treasurer/Financial Director

From: Kathy Himes, Human Resources Director

Subject: City Wide Pride Program

In December of each year, the Mayor presents the individuals with the highest number of appreciation slips with their “City-Wide Pride” certificate. In addition to being presented with a certificate as appreciation for a job well done, award winners are given four hours of personal time to be used before the end of the fiscal year.

Since 2000, co-workers, citizens, and visitors are given the opportunity to recognize employees for going the extra mile. Employees are recognized with City Wide Pride slips as appreciation for their dedication, hard work, and commitment to the City.

This year, there are eight awards to be presented – DPW Technician Tim Hepburn, Administrative Assistant for Police and Fire Tracy Marquardt, Fire Command Andy Marceau, Firefighter/Paramedic Andy Williams, Police Command Eric Hamp, Police Patrol Linnessa Mellberg, and for the administrative team there was a tie, Engineering Assistant/Harbor Master Shannon Smolinski and Building Inspector Steve Hall.

Congratulations to all recipients. As we continue to work through these challenging times, all employees deserve recognition for working with courage and dignity. Thank you to our entire staff.

Memorandum



To: Mayor Waligora and Municipal Council
From: Anna Soik, City Clerk/Treasurer/Finance Director *AS*
Date: December 14, 2021
Re: Perpetual Lot Care Fund Recommendation

As you may recall at the November 15, 2021, council meeting, a presentation was made by Mr. Patrick Heraghty of the Community Foundation of Northeast Michigan (CFNEM) for the investment of the perpetual lot care fund. At that time, I did not have a recommendation because I could see benefits of both options. The two options are: (1) 5% of the net assets calculated on a 12-quarter rolling average according to CFNEM spending policy; or (2) interest and other earnings.

Since the meeting, I performed additional calculations and analyzed the examples that Mr. Heraghty had presented. During the analysis, I discovered that a few incorrect numbers had been entered on the earnings example spreadsheet. In the original example, it was estimated that the City would have earned \$451,077.21 for 2014-2021 if \$1,000,000 had been invested. After recalculation and consultation with Mr. Heraghty, he agreed that the calculation should actually be \$648,909.21. In the years that have negative investment returns, the City would not receive a distribution unless there was a balance that had not been distributed. Assuming that the next year would have a positive return, the positive return would negate the negative return. From the data provided, the investment pool with CFNEM had only five years with negative returns out of the 21 years of data provided. Further, only two of the remaining 16 years had returns below 5%.

As a result of the analysis, my recommendation as Clerk/Treasurer/Finance Director is to select the earnings option for investment of the perpetual lot care fund with CFNEM and authorize the Mayor and Clerk to sign on behalf of the City. The amount currently available as of today to invest is \$741,623.66. There is a certificate of deposit that matures on May 24, 2022 for \$150,000 which could be invested at that time. There is also \$115,000 invested in a municipal bond that matures on October 1, 2025.



STRENGTHENING COMMUNITIES

Grants

Endowments

Planned Giving

Scholarships

AGENCY ENDOWMENT FUND AGREEMENT

THIS AGREEMENT is made on _____ (date) _____, by and between **The Community Foundation for Northeast Michigan**, a Michigan nonprofit corporation ("Foundation") and the **City Of Alpena, Michigan** ("Agency").

Preliminary Statements

Agency desires to create a charitable fund with respect to which Agency may benefit from charitable grants. The Foundation is a Michigan nonprofit corporation that is exempt from taxation under Internal Revenue Code ("Code") Section 501(c)(3) and a public charity described in Code Section 170(b)(1)(A)(vi), and the Foundation therefore is an appropriate institution within which to establish such a charitable fund. The Foundation is willing and able to accept and administer such an agency fund, subject to the terms and conditions of this agreement.

Agreement

The Foundation and Agency agree as follows:

1. **NAME OF FUND.** As allowed by Public Act 422 of 2014 enacted by the State of Michigan, MCL 128.3, ("Public Act 422"), Agency establishes in the Foundation a component fund to be known as the "City of Alpena Cemetery Perpetual Care Fund" ("Fund"). Subject to the Foundation's right to reject any particular gift, the Foundation may receive additional gifts of property acceptable to the Foundation from time to time from Agency, all subject to the provisions of this Agreement. Each transfer of property to the Fund is irrevocable once the Foundation accepts the contributed property.
2. **PURPOSE.** The purpose of the Fund is to support the Foundation's grant making and programming in furtherance of the Foundation's purposes. The specific purpose of the Fund shall be to provide support to the City of Alpena for the ongoing care and maintenance of the cemeteries it manages.
3. **POLICIES AND PROCEDURES.** The Foundation shall administer the Fund in accordance with its policies and procedures in effect from time to time that are generally applicable to its Agency funds, except as otherwise provided in this Agreement or specified in Public Act 422.
4. **DISTRIBUTION.** The Foundation shall annually authorize 2 distributions of interest and other earnings, net of administrative fees as provided below, to Agency for care and maintenance of its cemeteries. No distribution shall be made if the balance of the fund is below the principal gift value. A distribution to an individual or to an entity for the benefit of a particular individual is prohibited. No distribution shall be made from the Fund to any individual or entity, if such distribution will in the judgment of the Foundation, endanger the Foundation's Code Section 501(c)(3) status.

5. **ADMINISTRATIVE PROVISIONS.** Notwithstanding anything in this Agreement to the contrary, the Foundation shall hold and administer the Fund, and all property that Agency contributes to the Fund, in accordance with the provisions of applicable federal and Michigan laws, this Agreement and the provisions of the Foundation's Articles of Incorporation, Bylaws and written policies in effect from time to time. The Board shall monitor the distribution of the Fund and shall have all powers of modification and removal specified in United States Treasury Regulations Section 1.170-A-g(e)(n)(v)(B). The Foundation shall amend this Agreement, if necessary, to conform to the provisions of any applicable law or government regulation in order to carry out the foregoing intention.
6. **REPORTS.** The Foundation shall provide to the Agency a Fund financial report annually that includes information regarding the beginning and ending value of the Fund, the deposits to the Fund, including interest and earnings from Fund investments, documentation of distributions from Fund to Agency, and documentation of any fees and expenses paid by the Fund to Foundation as provided below. In addition, the Agency may request a copy of the annual examination of the finances of the Foundation as reported upon by independent certified public accountants.
7. **CONDITIONS FOR ACCEPTANCE OF FUNDS.** Agency acknowledges that the establishment of the Fund is made in recognition of, and subject to, the terms and conditions of the Foundation's Articles of Incorporation, Bylaws and its policies and procedures in effect from time to time and that the Fund shall at all times be subject to those terms and conditions, including the Foundation's authority to exercise its variance power to modify any restriction or condition on the distribution of funds from the Fund for any specified charitable purpose or to any specified organization if, in the sole judgment of the Foundation's Board of Trustees, the restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the area that the Foundation serves.
8. **CONTINUITY.** The Fund shall continue so long as assets are available in the Fund and the purposes of the Fund can be served by its continuation.
9. **NOT A SEPARATE TRUST.** The Fund shall be a component part of the Foundation and shall not be segregated as trust property of a separate trust. The Foundation shall have exclusive legal control over all Fund property and all undistributed net income from Fund property.
10. **ACCOUNTING.** The Foundation shall account for Fund receipts and disbursements separately from those of other Foundation component funds. The Foundation may commingle the Fund property with the property of other Foundation component funds, if the separate identity of the Fund, and the distribution from it, are at all times maintained.
11. **INVESTMENT OF FUNDS.** The Foundation shall have all powers necessary, or in its sole discretion desirable, to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest and reinvest the Fund and the power to commingle Fund property with of the property of other Foundation component funds for investment purposes. The foundation will invest the Fund in accordance with the investment policies in effect from time to time that the Foundation applies to its long-term endowed component funds.

12. **INSURANCE.** The Foundation shall obtain and maintain errors and omissions insurance coverage and employee dishonesty insurance coverage with limits consistent with best practices of community foundations in Michigan and provide evidence of same upon request by the Agency.
13. **ADMINISTRATIVE COSTS.** The Foundation periodically may charge against the Fund administrative costs in accordance with its fee schedule applicable to funds of this type, in effect from time to time. Any costs to the Foundation in accepting, transferring or managing property donated to the Foundation for the Fund may also be paid from the Fund.
14. **PUBLICITY.** The Foundation will make all distributions from the Fund in the name of the Fund. Except as required by law or restricted by this Agreement or a written request for anonymity, the Foundation may use materials submitted by the Agency, the Fund name and the Agency's name in connection with the Foundation's promotional efforts, printed materials, newsletters, annual report, electronic media and mailings. All marketing and solicitation materials drafted by the Agency with reference to the Fund must be submitted and approved by the staff of the Foundation prior to public dissemination.
15. **FOUNDATION REQUIREMENTS.** The Foundation hereby acknowledges that as of the date of this Agreement that it is a qualifying community foundation since it meets the requirements of MCL 128.3. It is hereby agreed that the Foundation shall continue, for as long as this Agreement is in effect, to use good faith efforts to comply with the requirements of MCL 128.3 as it may be amended from time to time. If the Foundation cannot continue as a qualifying community foundation, this Agreement will be terminated, and the Fund shall be transferred as provided in Section 17.
16. **DEFAULT.** If the Foundation defaults on its obligations and fails to cure the default within 30 days after notice from the Agency, the Agency may elect to terminate this Agreement. In such event, the Fund shall be transferred as provided in Section 17.
17. **TRANSFER OF FUND ON TERMINATION.** If the Fund is terminated due to default or otherwise, the Fund will be transferred to another qualifying community foundation to be chosen by the Agency or, if there is no such qualifying community foundation, the Fund shall be transferred to the Agency for purposes of maintaining cemeteries or for purposes that most nearly approximate the original purpose of the Fund.
18. **NOTICES.** All notices shall be in writing. Unless notice is given as to another address or email address, a notice may be delivered personally to a party, may be sent by certified mail, return receipt requested and postage prepaid, to:

City of Alpena
Attn: Rachel Smolinski, City Manager
208 N. First Avenue
Alpena, MI 49707

The Community Foundation for Northeast Michigan
Attn: Patrick Heraghty, Executive Director
P.O. Box 495
Alpena, MI 49707

19. MISCELLANEOUS.

- A. Amendments.** This Agreement may only be amended by the written agreement of the parties.
- B. Integrated Contract.** This is an integrated contract. It contains the full understanding of the parties and supersedes all other understandings, agreements or conditions, written or oral, regarding the subject matter of this Agreement.
- C. Michigan Law.** This Agreement has been executed in the State of Michigan and shall be governed by Michigan Law.
- D. Waiver.** The waiver by any party hereto of a breach or violation of any provision of this Agreement shall not be a waiver of any subsequent breach of the same or any other provision of this Agreement.
- E. Impairment.** If any section or provision of this Agreement is unenforceable for any reason, the unenforceability thereof shall not impair the remainder of this Agreement, which shall remain in full force and effect.
- F. Counterparts.** It is contemplated that this Agreement will be executed in multiple counterparts, all of which together shall be deemed to be one contract.
- G. Captions.** The captions in this Agreement are for convenience only and shall not be considered as part of this Agreement or in any way to amplify or modify the terms and provisions hereof.
- H. Enforcement.** This Agreement shall be enforceable only by the parties hereto and their successors in interest by virtue of an assignment which is not prohibited under the terms of this Agreement, and no other person shall have the right to enforce any of the provisions contained herein.
- I. Cumulative.** All rights and remedies set forth in this Agreement are cumulative and are in addition to any other legal or equitable rights and remedies.

{Signatures on next page}

Community Foundation for Northeast Michigan
Cemetery Fund Agreement
Signature Page

The Agency and the Foundation have caused this Agreement to be approved by their respective City Council and Board of Trustees and to be executed by authorized officers, all as of the day and year first written above.

CITY OF ALPENA

By: _____
Matt Waligora, Mayor

Date: _____

Approved as to form:

William A. Pfeifer
City Attorney

Date: _____

Anna Soik, City Clerk

Date: _____

"Agency"

**THE COMMUNITY FOUNDATION
FOR NORTHEAST MICHIGAN**

By: _____
Patrick Heraghty
Executive Director

Date: _____

"Foundation"

City Compensation Committee

Minutes

December 2, 2021

- 1.) Call to order. Meeting called to order at 12:00 noon
- 2.) Attendance. Dennis Schultz, Al Moe, Jackie Krawczak, Carol Lund, Tanner Kostelic
- 3.) Old Business
 - a) Reviewed minutes of last meeting.
 - b) Reviewed wage history noting that several years prior compensation included payment for meeting attendance.
- 4.) New Business
 - a) Review comparative data made available by City staff. Noted that City is second highest paid of comparative data.
 - b) We request that City staff provide us with the language that defines this committee's responsibility and authority.
- 5.) Action Items
 - a) Wage for Mayor. The committee recommends that wage for the Mayor remain the same for the next two years. Motion Krawczak, support Kostelic. Motion passed.
 - b) Wage for Council. The committee recommends that the wage for the Council members remain the same for the next two years. Motion Schultz, support Moe. Motion passed.
 - c) Chair Selection. To appoint Jackie Krawczak Chair for the City Compensation Committee.

Motion Lund, support Kostelic. Motion passed.
- 6.) Meeting adjourned 1:00 pm.

Respectfully submitted,

Al Moe

Secretary

ORDINANCE NO. 21-467

AN ORDINANCE OF THE CITY OF ALPENA, MICHIGAN, AMENDING CHAPTER 18 – BUSINESSES, ARTICLE I. IN GENERAL, Sec. 18-1 MEDICAL MARIHUANA FACILITIES - BY REPEAL OF SAME AND ADOPTION OF NEW LANGUAGE IN LIEU THEREOF.

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ALPENA, STATE OF MICHIGAN, AS FOLLOWS:

CHAPTER 18 - BUSINESSES

ARTICLE I. - IN GENERAL

Sec. 18-1. - Medical Marihuana facilities and adult use marihuana establishments.

(A) *Purpose, intent, relationship to other laws and city liability and indemnification*

- (1) ***Purpose.*** The purpose of this section is to implement and establish a uniformed licensing and regulatory process for Medical and Adult-Use Marihuana Businesses to the extent permissible under the provisions of the Michigan Medical Marihuana Act, (MCL 333.26421 et seq.), the Michigan Marihuana Facilities Licensing Act (MCL 333.27101 et seq.) the Marihuana Tracking Act (MCL 333.27901 et seq.), and the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.) referred to herein as the "Acts", so as to protect the public health, safety, and welfare of the residents and patients of the city by setting forth the manner in which medical marihuana facilities and adult use marihuana establishments can be operated in the city. Further, the purpose of this section is to:
 - a. Provide for a means of cultivation, processing, and distribution of marihuana to patients who qualify to obtain, possess, and use marihuana for medical purposes and for eligible adults with proper qualifying identification to obtain, possess, and use marihuana for legally allowable individual purposes under the Acts;
 - b. Protect public health and safety through reasonable limitations on marihuana operations as they relate to noise, air and water quality, neighborhood and patient/customer safety, security for the facility and its personnel, and other health and safety concerns;
 - c. Protect residential neighborhoods by limiting the location and the concentration of types of medical marihuana facilities and adult use marihuana establishments to specific areas of the city;
 - d. Impose fees to defray and recover the cost to the city of the administrative and enforcement costs associated with medical marihuana facilities and adult use marihuana establishments;
 - e. Coordinate with laws and regulations that may be enacted by the state addressing marihuana; and

- f. To restrict the issuance of medical marihuana facility and adult use marihuana establishment licenses only to individuals and entities that have demonstrated an intent and ability to comply with this section.

(2) ***Legislative intent.*** This section authorizes the establishment of marihuana facilities and marihuana establishments within the city consistent with the Acts:

- a. Marihuana cultivation and processing can have an impact on health, safety, and community resources, and this section is intended to permit marihuana cultivation and processing where it will have a minimal impact;
- b. The regulations for medical marihuana facilities and adult use marihuana establishments are not adequate at the State level to address the impacts on the city of the commercialization of marihuana, making it appropriate for local regulation of the impact of medical marihuana facilities and adult use marihuana establishment on communities as provided for under the acts and expressly retained by municipal charter and any and all powers and immunities, expressed and implied which cities and their officers are, or hereafter may be, permitted to exercise or to provide for under the constitution and laws of the State;
- c. Nothing in this section is intended to promote or condone the distribution, or possession of marihuana in violation of any applicable State law;
- d. This section is to be construed to protect the public over medical marihuana facility and adult use marihuana establishment interests. Operation of a medical marihuana facility and adult use marihuana establishment is a revocable privilege and not a right in the city. There is no property right for an individual or facility to engage or obtain a license to engage in marihuana as a commercial business in the city.

(3) ***Relationship to federal law.*** As of the effective date of this section, marihuana is classified as a schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this section is intended to grant immunity from any criminal prosecution under federal law.

(4) ***Relationship to state law.*** As of the effective date of this section, as amended, and except as otherwise provided by the Acts; and this section, a city licensee and its employees and agents who are operating within the scope of a valid state-issued operating license are not subject to criminal or civil prosecution under city ordinances regulating marihuana.

Nothing in this section is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with the Acts, all applicable rules promulgated by the state regarding marihuana and all local laws, ordinances, rules and policies. Strict compliance with any applicable state law or regulation shall be deemed a requirement for the issuance or renewal of any license issued under this section, and noncompliance with any applicable state law or local law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this section.

(5) ***Reservation of legislative prerogative.***

- a. The City of Alpena reserves the right to amend or repeal this Chapter in any manner, including, but not limited to, the complete elimination of any type or number of medical marihuana facilities or adult-use marihuana establishments authorized to operate in the City.
- b. Nothing in this Chapter may be held or construed to grant or "grandfather" any medical marihuana facility a vested right, license, permit or privilege to continued operations within the City, except as granted by approval through the application and/or application renewal process and as consistent with all other applicable laws, rules, regulations, and guidelines of the state of Michigan.

(6) ***City liability and indemnification.***

- a. By accepting a license issued pursuant to this section, the licensee waives and releases the city, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility and adult use marihuana establishment owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.
- b. By accepting a license issued pursuant to this section, all licensees, agree to indemnify, defend and hold harmless the city, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating facility or establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a medical marihuana facility and adult use marihuana establishment or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).
- c. By accepting a license issued pursuant to this section, a licensee agrees to indemnify, defend and hold harmless, the city, its officers, elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising

on account any alleged violation of the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq. or article 7 of the Michigan Public Health Code, MCL 33.7101 et seq.

(B) ***Definitions.*** Through this section, the city adopts all definitions contained in any of the state rules, regulations, statutes, administrative code, enacted for the purpose of regulating marihuana facilities and establishments.

(C) ***Licensing of medical marihuana facilities and adult use marihuana establishments.***

(1) ***Local licensing authority.***

- a. The Alpena City Council is designated as the local licensing authority. The city council may by resolution delegate its authority or a portion of such authority to a new committee or other designee to act as the local licensing authority. The local licensing authority shall have the duty and authority pursuant to the Medical Marihuana Facilities Licensing Act (“MMFLA”) and Michigan Regulation and Taxation of Marihuana Act (“MRTMA”) in this Ordinance to grant or deny an application described in this Ordinance and to levy penalties against the licensee in the manner provided by law.
- b. The local license authority shall consider applications for new business premises, transfer of ownership, change of location, license premises modification, changes in trade name, and any other appropriate application.
- c. The local license authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the local licensing authority.
- d. The local license authority shall have the power to require any application or licensee to furnish such information to the authority as may be reasonably necessary in order for the authority to perform its duties and functions authorized by this Ordinance.
- e. The local license authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the productions of papers, books and records at any hearing in which the authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a District Court of the State. The District Court Judge shall have the power and authority to enforce such subpoena.

- (2) ***Number of permitted facilities.*** The maximum number of each type of medical marihuana facility and adult use marihuana establishment permitted in the city is as follows:

Type	Number Permitted in City
Grower Licenses of Class A (maximum of 100 marihuana plants) as defined in the MRTMA or Class A (maximum of 500 marihuana plants) as defined in the MMFLA	Unlimited
Grower Licenses of Class B (maximum of 500 marihuana plants) as defined in the MRTMA or Class B (maximum of 1,000 marihuana plants) as defined in the MMFLA	Unlimited
Grower Licenses of Class C (maximum of 2,000 marihuana plants) as defined in the MRTMA or Class C (maximum of 1,500 marihuana plants) as defined in the MMFLA	Unlimited
Marihuana Microbusiness	Unlimited
Medical Marihuana Provisioning Centers/Marihuana Retailers	Unlimited
Marihuana Processor or Medical Marihuana Processor Facility	Unlimited
Marihuana Safety Compliance Establishment or Medical Marihuana Safety Compliance Facility	Unlimited
Secure Transporter or Medical Marihuana Secure Transporter	Unlimited
Excess Grower	Unlimited
Designated Consumption Center	Prohibited
Marihuana Event Organizer	Prohibited
Temporary Event License	Prohibited

- (3) ***Location.*** No medical marihuana facility or adult use marihuana establishment shall be eligible to be issued a license unless at the time of application for such license, the location of the proposed facility complies with the zoning and separation distances from other uses as set forth in the city zoning ordinance as required for the specific type of medical marihuana facility or adult use marihuana establishment for which licensure is being sought;
- (4) ***Operation at location provided on application only.*** A licensee shall not operate a medical marihuana facility or adult use marihuana establishment at any place in the city other than the address provided in the application on file with the city clerk.

- (5) ***Combined facilities.*** Multiple types of medical marihuana facilities and adult use marihuana establishments may operate from a single location pursuant to the Acts, State of Michigan rules, and the city Zoning Ordinance. A combined facility shall pay one licensing fee upon application if the combined facility is applied for concurrently. If a medical marihuana facility or adult use establishment is added to an existing facility or establishment, a new application and licensing fee shall be required. Annual renewal of the combined facility shall require one fee.
- (6) ***Stacking of licenses.*** Any grower issued a license by the city may stack up to three class C licenses at a single location without requiring any additional city licensing or approval, provided that the exterior of the existing structure where the facility is located will not require expansion. If expansion is required, the licensee must obtain all necessary permits and approval required for such expansion.
- (7) ***Expansion of license classification.*** Provided further that any licensed grower in the city that holds anything less than a state issued class C license may, at any time, expand the license classification without requiring city approval. By way of example: licensee holding a state issued class A license may expand at any time to a state issued class B or C and may further stack up to three class C licenses as provided above without city approval.
- (8) ***License and annual fees required.***
- a. No person shall establish or operate a medical marihuana facility or adult use marihuana establishment in the city without first having obtained from the city and the State of Michigan a license for each such facility or establishment to be operated. License certificates shall be kept current and publicly displayed within the facility or establishment. Failure to maintain or display a current license certificate shall be a violation of this section;
 - b. An annual, nonrefundable licensing fee to defray the administrative and enforcement costs associated with medical marihuana facilities and adult use marihuana establishments located in the city of not more than \$5,000.00 per license or in an amount established by resolution adopted by the city council or in an amount established by state law;
 - c. The annual, nonrefundable application/reapplication fee, as determined by city council resolution from time to time, per license required under this section shall be due and payable with the application for a license and upon the application for renewal of any such license under this section. This application/reapplication fee shall be considered part of the licensing fee in subsection 6.b;
 - d. The annual, nonrefundable inspection fee, as determined by city council resolution from time to time, per licensed facility required under this section shall be due and payable with the application for annual inspection and upon the application for renewal of any such license under this section; This inspection fee shall be considered part of the licensing fee in subsection 6.b;

- e. The fees set forth herein shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or city ordinance, including, by way of example any applicable zoning or building permits;
- f. The issuance of any license pursuant to this section does not create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law;
- g. A separate license shall be required for each facility or establishment type or premise from which a medical marihuana facility or adult use marihuana establishment is operated.
- h. The term of each license shall be one year beginning when the licensee is granted a certificate of occupancy and permit from the building and safety inspections division.
- i. The annual license established pursuant to the above paragraph begins and commences at the time of the receipt of the applicant's certificate of occupancy by the city.

(9) ***Application requirements.***

- a. A person seeking a license pursuant to the Acts and the provisions of this section shall submit an application to the city on forms provided by the city. All documents submitted to the city shall be submitted in both hardcopy and digital formats. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the city for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present a suitable form of identification.
- b. The applicant shall also provide a complete copy of their application for State approval, including, but not limited to:
 - 1. Proof of ownership or authorization to use the property for a medical marihuana facility or adult use marihuana establishment.
 - 2. A notarized statement from the owner of such property authorizing the use of the property for a medical marihuana facility or adult use marihuana establishment, if the applicant is not the owner of the proposed licensed premises;
 - 3. A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.

4. The non-refundable application fee for a medical marihuana facility or adult use marihuana establishment license is \$1,500.00 per license or as established by resolution adopted by city council or in an amount established by state law. This application fee shall be considered part of the licensing fee in subsection 6.b;
- c. For medical marihuana provisioning centers, marihuana retailers, and marihuana microbusinesses, the following shall apply:
1. At least one applicant shall demonstrate experience with owning (51% or more), operating, and/or managing a business with inventory tracking and control (min. of 1 year) pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
 2. At least one applicant shall demonstrate experience with owning (51% or more), operating, and/or managing a business in a highly regulated industry (min. of 1 year). Highly regulated means subject to regulation by LARA or a similarly regulated agency (state or federal) pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
 3. Applicant shall present a detailed description of estimated capital investment. Capital investment is defined as a fixed asset, which is an asset purchased for a long-term use and not likely to be converted quickly into cash such as land, buildings, and equipment pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
 4. Applicant shall include a business plan which includes a daily operations schedule.
 5. Applicant shall present a proposed staffing plan, complete with descriptions of job duties, proposed wages, and employee qualifications/hiring criteria pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
 6. Applicant shall present a documented employee policy book and code of ethics to ensure honesty and integrity of employees.
 7. Applicant shall present a sworn attestation that the Applicant and/or parties with 25% or more interest in the company have not been subject to any civil

monetary judgements entered against it in the last 7 years, excluding family law matters or estate disputes.

8. Applicant shall present a sworn attestation that the Applicant and/or parties with 25% or more interest in the company have not filed bankruptcy within the last 7 years.
9. Applicant shall present a plan to deter and prevent unauthorized entrance into the facility.
10. Applicant shall present a plan to prevent theft and diversion.
11. Applicant shall present a plan for 24/7 video surveillance inside and outside of facility.
12. Applicant shall present a plan for secure storage of medical marihuana and proceeds.
13. Applicant shall present a detailed plan for record keeping and inventory management.
14. Applicant shall provide copies of material safety data sheets for hazardous materials and their plan for storage and disposal (or a sworn attestation that no hazardous materials will be on the premises at any time).
15. Applicant shall present a plan that included a security system in place to alert owner of possible tampering with the facility or its contents.
16. Applicant shall propose a living wage (at least 200% of the Federal Poverty Level for a family of two, at its hourly basis) to all employees pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.
17. Applicant shall offer a benefits package in addition to wages or salary pursuant to MCL 125.3501, MCL 125.3502, MCL 125.3504, Article VII, § 34 Construction of constitution and law concerning counties, townships, cities, villages and Article VII, § 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.

(10) ***Review process.***

- a. Within fourteen (14) days of application submittal, city staff will determine if the application is complete and will notify the applicant if there are deficiencies.

- b. After receiving notification from city staff pursuant to subsection 8.a above, the applicant shall have fourteen (14) days from the date of said notification to submit additional information.
- c. Within thirty (30) days of the application being determined to be complete, city staff will review the application to determine compliance with this section and shall notify the applicant that the applicant is approved to proceed with the inspection phase pursuant to subsection 10.

(11) ***Denial of application and due process.***

- a. The city shall reject any application that does not meet the requirements of the Acts or this section, or any pertinent provision of any State of Michigan or City of Alpena laws, rules or regulations.
- b. In accordance with the Acts, an applicant may be ineligible to receive a license under this section if any of the following circumstances:

- 1. The applicant has knowingly submitted an application for license that contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information for the application for license.
- 2. The applicant fails to meet other criteria established by the Acts or other pertinent law and/or obtain a state license.
- 3. The applicant does not submit proof of "approved for prequalification" with the state.

- c. ***Denial of application; due process.***

- 1. Those applicants denied a license based on qualifications may appeal the decision within thirty (30) days of notification of denial. The city council shall hear and decide questions or requests for due process that arise after city staff have reviewed and provided a decision that the applicant wishes to further appeal.
- 2. The applicant must submit a narrative request for due process that includes detailed information and all supporting documentation for any/all points they wish to have city council consider.
 - i. Within thirty (30) days of notification of appeal by the applicant, a due process review shall be conducted at a public meeting of the council and a concurring vote of a majority of the members of the full city council is necessary to reverse an order, requirement, decision or determination of an administrative official in the interpretation of this section;

- ii. The applicant must be present at the designated council meeting or forfeits their right to due process;
- iii. The decision of the city council is final.

(12) *Issuance of city medical marihuana facility or adult use marihuana establishment operating license.*

- a. *Special use permit.* The proposed medical marihuana facility or adult use marihuana establishment shall obtain a Special Use permit from the Planning Commission.
- b. *Inspection.* An occupancy inspection of the proposed medical marihuana facility or adult use marihuana establishment by the city shall be required prior to the issuance of the city operating license in accordance with the currently adopted Michigan Building Code. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation.
- c. In the event that the medical marihuana facility or adult use marihuana establishment is granted a license but fails to substantially comply with its original site plan or operates inconsistent with the manner in which it was represented on the licensing application, the city may revoke the license or may allow the licensee to present its case for modification of its original facility and license to the Planning Commission. If the Planning Commission approves the changes, then the city will take no further action regarding the licensee's license. If the licensee fails to address its substantial non-compliance with the Planning Commission, then the city may revoke the license and may prohibit the licensee from applying for a medical marihuana facility or adult use marihuana establishment license in the future.
- d. After verification that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation, the city clerk shall issue a city medical marihuana facility or adult use marihuana establishment license whose term shall run concurrent with the State of Michigan license for the facility or establishment.
- e. Maintaining a valid medical marihuana facility or adult use marihuana establishment license issued by the State of Michigan is a condition for the issuance and maintenance of the city medical marihuana facility or adult use marihuana establishment operating license issued under this section and the continued operation of a medical marihuana facility or adult use marihuana establishment.

- f. The city will authorize approved medical marihuana facility or adult use marihuana establishment license(s) to entities on the condition that the following have been submitted, completed and approved:
1. Application on a form provided by the city; and
 2. Paid all licensing fees due to the city; and
 3. The entity(ies) holds an approved and fully authorized State of Michigan approved medical marihuana facility or adult use marihuana establishment license to the city clerk; and
 4. An approved Special Land Use permit from the Planning Commission; and
 5. An approved certificate of occupancy from the applicable building official; and
 6. All medical marihuana facilities or adult use marihuana establishments shall obtain a State of Michigan license and all other required permits or licenses related to the operation of the medical marihuana facility or adult use marihuana establishment, including, without limitation, any development approvals or building permits required by any applicable code or ordinance prior to opening to the public; including but not limited to any approved building permits (as required for any construction/deconstruction) by the city official as appropriate. Any such license and required permits shall be acquired within one (1) year from the date of approval by city council unless that period is extended by mutual agreement of the city council and licensee.
 7. *Proof of insurance.* A licensee shall at all times maintain full force and effect for duration of the license, workers compensation as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued from a company licensed to do business in the state having an AM Best rating of at least A-.
 8. The policy shall name the city and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the city of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the city clerk within five business days in the event of expiration or cancellation of coverage.

9. Applicant will provide any additional information that the city clerk, law enforcement, fire chief, public works supervisor, zoning administrator, building official, city manager and/or city attorney or their designees reasonably determines to be necessary in connection with the investigation and review of the application.

(13) ***License forfeiture.*** In the event that a medical marihuana facility or adult use marihuana establishment does not commence operations within one (1) year of issuance of a city operating license, the license shall be deemed forfeited; the business may not commence operations, unless extended by a majority vote of the full city council.

(14) ***License renewal.*** A valid medical marihuana facility or adult use marihuana establishment license may be renewed on an annual basis by a renewal application upon a form provided by the city and payment of annual fees.

- a. ***Timeline of renewal application.*** An application to renew a medical marihuana facility or adult use marihuana establishment license shall be filed at least ninety (90) days prior to the date of its expiration.
- b. ***Late fee.*** In the event that the renewed application is not submitted in accordance with this section, the city will assess a late fee as fixed by city council for each day that the renewal application is submitted late.
- c. ***Late fee after expiration.*** In the event that an application is not received by the date of expiration, an additional late fee shall be assigned by the city council not to exceed \$2,000.00, in addition to the daily late fees outlined herein and annual renewal fee.
- d. ***Expiration.*** In the event that an application is not received by the date of expiration, the license will be considered null and void and all operations must immediately cease by order of law enforcement.
- e. ***Notice of revocation.*** A notice of local revocation will be issued to the State of Michigan and the licensee will have to resubmit all documentation, fees, and receive all approvals as a new entity should they wish to reopen their business.
- f. ***Annual inspection.*** Prior to the issuance of a renewed medical marihuana facility or adult use marihuana establishment license by the city, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this section. The annual, nonrefundable inspection fee, as assigned by the city council, per licensed facility or establishment required under this section, shall be due and payable with the application for annual inspection and upon the application for renewal of any such license under this section.

(15) ***Transfer, sale, or purchase of license.***

- a. A medical marihuana facility or adult use marihuana establishment license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marihuana facility or adult use marihuana establishment license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this section.
- b. Each operating license is exclusive to the licensee and location. A licensee or any other person must submit an application for licensure with the city clerk before a license is transferred, sold, or purchased.
- c. In compliance with any/all rules issued by the board regarding the sale, transfer or purchase of existing licenses; any entity that holds a city-issued license may transfer or sell their license to a qualifying applicant.
 1. Any entity purchasing or receiving a transferred license must submit an application and all associated documentation and all fees;
 2. The applicant who is receiving the transfer or purchasing the license must have submitted all new application, license and inspection fees and received all local and State of Michigan approvals, including "approved for prequalification" with the State of Michigan on all applications and associated documentation as well as all inspections as outlined in this section and the Acts prior to beginning or taking over operations.
- d. The attempted transfer, sale, or other conveyance of an interest in a license without city approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the city.
- e. The following actions constitute transfer of ownership and require a new application, application fee and city council 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 members or change in the interest held by member(s) of any Limited Liability Company holding a Permit constitutes a transfer of ownership.

4. ***Partnerships.*** Any change 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 constitutes a transfer of ownership

f. ***Effect of transfer.***

1. Immediately following the approval of a transfer of ownership by the city, the transferee(s) will obtain all the interests, rights, obligations and responsibilities of the previous license holder. Once a license holder has transferred his or her ownership interest, any privileges enjoyed by that license holder under this ordinance are terminated.
2. For transfers, the renewal and termination dates of the license shall not change.

(16) ***License as revocable privilege.***

- a. An operating license granted by this section is a revocable privilege granted by the city and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.
- b. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the city's approval before a license is transferred, sold, or purchased.
- c. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.
- d. Any effort to circumvent the protocol listed in this section and/or the city zoning ordinance will result in the immediate denial of application or complete revocation of the city-issued medical marihuana facility or adult use marihuana establishment license.

(17) ***Nonrenewal, suspension, or revocation of license.***

- a. The city may, after notice, suspend, revoke or refuse to renew a license for any of the following reasons:
 1. The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this section or with any applicable state or local law or regulation;

2. The applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the State of Michigan or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
 3. The medical marihuana facility or adult use marihuana establishment has been operated in a manner that adversely affects the public health, safety or welfare;
 4. The licensee has not submitted all necessary documentation and/or fees to renew their license.
- b. Evidence to support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises or property occupied by the medical marihuana facility or adult use marihuana establishment, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marihuana facility or adult use marihuana establishment, or an ongoing nuisance condition emanating from or caused by the medical marihuana facility or adult use marihuana establishment or any other concerns raised by city staff and/or other local, state or federal officials. Criminal conduct shall be limited to the violation of a state law or regulation or city ordinance.
 - c. Any decision of nonrenewal, suspension or revocation has the right to due process and may be eligible for appeal to the city council.

(D) General requirements and restrictions. All medical marihuana facilities or adult use marihuana establishments operating within the city shall be subject to the following general requirements and restrictions. To the extent there is a conflict between these requirements and restrictions and the Act, the Act shall prevail.

(1) General requirements.

- a. **Exterior signage.** Facilities and establishments may only use exterior signage that is in compliance with the city's zoning ordinance regarding signs and Michigan law. Facilities may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects.
- b. **Hours of operation.** Provisioning centers, retailers, and microbusinesses may only operate between the hours of 8:00 a.m. and 9:00 p.m.
- c. **Indoor operations/no drive-thru service.** All business operations of a facility or establishment must occur indoors. Facilities and establishments may not provide drive-thru service.

- d. ***Odors.*** Facilities and establishments may not emit noxious odors or fumes, in accordance with the city's zoning ordinance regarding visibility of activities; control of emissions.
- e. ***Artificial lighting.*** Any artificial grow lighting must not be visible from neighboring properties, streets, or rights-of-way.
- f. ***Security.*** Facilities and establishments shall have:
 - 1. A monitored alarm system (24 hours per day and seven days a week);
 - 2. A safe for all cash, cash equivalents, and marihuana stored in the facility or establishment overnight shall be in a room secured by commercial grade security doors;
 - 3. Monitored security cameras covering, at a minimum, all parking areas, entrances and exits, points of sale, and all areas where marihuana is stored or handled. All security recordings must be maintained for a minimum of forty-five (45) days and provided to law enforcement upon request;
- g. ***Display of permit.*** The permit issued by the city and the license issued by the state shall be prominently displayed within the facility in a location where it can be easily viewed by the public.
- h. ***Systems.*** All facilities and establishments shall have electrical, fire safety, plumbing, filtration and waste disposal systems, which are appropriate and consistent with best industry practices for the business being conducted.

(2) ***Prohibited acts.***

- a. No person under the age of eighteen (18) shall be permitted to enter a facility unless the person has a medical marihuana card and is accompanied by a legal guardian over the age of eighteen (18).
- b. No marihuana may be smoked, used, or consumed at any facility.
- c. It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.
- d. No facility or establishment may operate under a temporary certificate of occupancy. Facilities and establishments shall be in full compliance with all applicable legal requirements in order to operate.
- e. It shall be unlawful for any licensee holding a provisioning center, retailer, or microbusiness license, or for any agent, manager, or employee thereof to:

1. Sell, give, dispense or otherwise distribute medical marihuana or adult use marihuana paraphernalia from any outdoor location;
2. Sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee more usable form of medical marihuana (including the useable medical marihuana equivalent of medical marihuana-infused products) within any seven-day period of time than they are allowed by the MMMA to possess;
3. It shall be unlawful for a provisioning center, retailer, or microbusiness to distribute marihuana or marihuana-infused products to a consumer free of charge.

(3) ***Inspection of licensed premises.***

- a. Application for medical marihuana facility or adult use marihuana establishment license or operation of a medical marihuana facility or adult use marihuana establishment, or leasing property to a medical marihuana facility or adult use marihuana establishment, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit law enforcement, or their designee, to conduct routine examinations and inspections of the medical marihuana facility or adult use marihuana establishment to ensure compliance with this section or any other applicable law, rule or regulation.
- b. During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by law enforcement and any other city departments for the purpose of investigating and determining compliance with the provisions of this section and any other applicable state and local laws or regulations.
- c. For the purposes of this section, examinations and inspections of medical marihuana facilities and adult use marihuana establishments and recordings from security cameras in such businesses are part of the routine policy of enforcement of this section for the purpose of protecting the public safety, individuals operating and using the services of the medical marihuana facilities and adult use marihuana establishments, and the adjoining properties and neighborhoods.
- d. A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a city inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this section, the Acts, or applicable state administrative rules.

(E) *Other laws remain applicable.* To the extent the State of Michigan adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marihuana, the additional or stricter regulation shall control the establishment or operation of any medical marihuana facility or adult use marihuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license, and noncompliance with any applicable state law or regulation shall be grounds for the revocation or suspension of any license.

(F) *Grant of administrative authority.* The city clerk is granted the power and duty, through its official designation, to fully and effectively implement and administer the license application process and issuance of operating licenses issued by the city under this section. The city clerk, after consultation with other city departments, may promulgate such rules as necessary to implement and administer this section.

(G) *Violations and penalties.*

(1) In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this section, any person, including, but not limited to, any licensee, manager or employee of a medical marihuana facility or adult use marihuana establishment, or any customer of such business, who violates any of the provisions of this section, shall be guilty of a misdemeanor punishable in accordance with this section unless a different penalty is provided herein.

(2) If a facility is operated in violation of the Act or any applicable ordinance, or if the Licensee is found to have submitted false or misleading information in its permit application, the city may revoke the permit for such facility to operate within the city. The city retains the right to alter the number and type of facilities and establishments authorized hereunder at any time. Any permit granted hereunder is a revocable privilege granted by the city and is not a property or other legal right.

(3) With respect to any facility that is in violation of any requirement or restriction set forth in this section, the Licensee of a facility, all persons identified pursuant to the Acts, and any on-site manager shall be subject to the following penalties:

- a. Any violation shall be a misdemeanor and may be punished by a fine of not more than \$1,500.00 and/or imprisonment not exceeding ninety (90) days and the violator(s) shall pay all court costs and expenses.
- b. The penalties set forth herein are non-exclusive and cumulative, and nothing herein shall be deemed to prevent city from enforcing any other applicable ordinance.
- c. In addition to the remedies provided herein, the city may file for injunctive relief to abate any violation hereof.

EFFECTIVE DATE

THE PROVISIONS OF THIS ORDINANCE SHALL TAKE EFFECT TEN (10) DAYS AFTER BEING ADOPTED BY THE MUNICIPAL COUNCIL AND DULY PUBLISHED.

I HEREBY CERTIFY THAT THE ABOVE ORDINANCE WAS ADOPTED BY THE MUNICIPAL COUNCIL OF THE CITY OF ALPENA, MICHIGAN, AT A REGULAR MEETING HELD ON THE _____ DAY OF _____ 2021.

Matthew J. Waligora
Mayor

Anna Soik
City Clerk/Treasurer/Finance Director

First Presented: December 6, 2021
Adopted: December 20, 2021
Published: _____, 2021

William A. Pfeifer, City Attorney



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Alpena, Michigan 49707
www.alpena.mi.us

Planning, Development, & Zoning

To: Alpena Municipal Council
From: Montiel Birmingham, Director
cc: Rachel Smolinski, City Manager
Date: December 15, 2021
RE: Zoning Ordinance Amendments

Content covered and approved during the Planning Commission meeting on December 14th, 2021, included amendments to the current zoning ordinance. The amendment is as follows:

Ordinance No. 21-468 – Modification to Rezoning Standards and Addition of Conditional Rezoning

1. Modification to Rezoning Standards

- a. Addition of “goals and objectives” to point A.
- b. Removal of points G and I
 - i. G - *Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?*
 1. **Reason for Removal:** A property can always be used for some use within its present zoning district. However, this statement fails to consider what use might be needed or desired or practical for the location.
 - ii. I - *Are there sites nearby already properly zoned that can be used for the intended purposes?*
 1. **Reason for Removal:** The answer to this is almost always “yes,” but the person that wants to do a specific use might not own those nearby properties, or they might not be available for sale. So, whether there are nearby properties can be irrelevant.

2. Addition of Conditional Rezoning

- a. **Reason:** A Use Variance is very difficult to receive because the owner must prove that they cannot use the land for any other use under the current zoning classification. Conditional Rezoning allows for flexibility in zoning given specific conditions tied to the property that are appropriate and consistent with the goals and objectives of the Comprehensive Plan.
- b. **Summary**
 - i. A landowner may request a Rezone with an offer of conditions
 - ii. Offer of conditions may not authorize uses or developments not permitted in the requested new zoning district
 - iii. Offer of conditions should bear a reasonable and rational relationship to the property for which rezoning is requested
 - iv. Recommendation from Planning Commission to Rezone with Offer of Conditions would go to City Council for approval



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Planning, Development, & Zoning

- v. A Statement of Conditions shall
 - 1. be incorporated into the Zoning Ordinance and Zoning Map
 - 2. be recordable with the Register of Deeds
 - 3. run with the land and is binding upon successor owners of the land
 - 4. contain a notarized signature of all owners attesting to the conditions
- vi. Building/use of land must begin within one year of rezone or revert back to former rezoning classification
- vii. Council has the ability to extend the one-year requirement under specific conditions
- viii. Future rezoning may cancel out the Statement of Conditions
- ix. City of Alpena continues to have the right to rezone

Montiel Birmingham is available to review the amendments and City Attorney, Bill Pfeifer will conduct the first reading of the ordinance. The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

City of Alpena Ordinance No. 21-468

An ordinance to amend the City of Alpena Zoning Ordinance Article 10 (Adoption and Amendments).

City of Alpena, Alpena County, Michigan ordains:

SECTION 1: AMENDMENT TO THE CITY OF ALPENA ZONING ORDINANCE

That the City of Alpena Zoning Ordinance, Article 10 (Adoption and Amendments) is hereby amended to read as follows:

Section 10.2 Rezoning Standards

The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request:

- A. Is the proposed rezoning consistent with **goals and objectives** of the current Comprehensive Plan?
- B. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
- C. Will there be an adverse physical impact on surrounding properties?
- D. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
- E. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
- F. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
- ~~G. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?~~
- ~~H. G. Is the site served by adequate public facilities or is the petitioner able to provide them?~~
- ~~I. Are there sites nearby already properly zoned that can be used for the intended purposes?~~

(add new) Section 10.3 Conditional Rezoning

A. Intent.

It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process

consistent with Section 405 of the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions.

1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the special land use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. Planning Commission Review.

The Planning Commission, after a public hearing as set forth pursuant to **Section 9.6** of this Ordinance and consideration of the factors set forth in **Section 10.2** (except **10.2.F**) of this Ordinance, may recommend approval, approval with recommended changes, or denial of rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. City Council Review.

After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested conditional rezoning and may approve or deny the request. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with Section 401 of **2006 PA 110**, refer such amendments to the Planning Commission for a report thereon within a time specified by

the City Council, and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval.

1. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the City Council to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the County Register of Deeds, or as an alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.
 - b. Contain the legal description and tax identification number of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the County Register of Deeds.
 - f. Contain the notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more

restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within one (1) year after the rezoning took effect and thereafter proceeded diligently to completion. This time limitation may upon written request be extended by the City Council if:

1. it is demonstrated to City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and
2. the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. Reversion of Zoning.

If the approved development and/or use of the rezoned land does not occur within the timeframe specified under **subsection G** above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

I. Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to **subsection H** above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The City Clerk shall record with the County Register of Deeds that the Statement of Conditions is no longer in effect.

J. Amendment of Conditions.

1. During the time period for commencement of an approved development and/or use specified pursuant to **subsection G** above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. City Right to Rezone.

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the **Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006, as amended)**.

L. Failure to Offer Conditions.

The City shall not require any owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Re-number remaining sections in Article 10 as follows (text within each section shall remain):

10.4 Protest Petition

10.5 Severability

10.6 Interpretation

10.7 Vested Right

10.8 Repeal and Savings Clause

10.9 Enactment and Effective Date

SECTION 2: SEVERABILITY

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

SECTION 3: SAVING CLAUSE

The City of Alpena Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

SECTION 4: EFFECTIVE DATE

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

Mayor

Clerk

I, _____, Clerk for the City of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. _____ of 2021 of the City of Alpena, adopted by at a meeting of the Alpena City Council held on _____.

A copy of the complete ordinance text may be inspected or purchased at the Alpena City Hall, at 208 N. First Avenue, Alpena, Michigan.

Adopted: _____ Published: _____ Effective: _____, subject to PA 110 of 2006 as amended.



Alpena County George N. Fletcher Public Library

211 N. First Avenue
Alpena, Michigan 49707-2893
Phone: 989-356-6188
Fax: 989-356-2765
www.alpenalibrary.org

December 15, 2021

Dear Members of the Alpena City Council,

The Board of Trustees of the Alpena County George N. Fletcher Public Library requests that the City of Alpena consider changing the traffic controls for the pedestrian crosswalks at the intersections of First Avenue at both Water St. and at Park Place. Since reopening we have had multiple complaints by both patrons and staff regarding vehicles speeding through these intersections without yielding or stopping, making the intersections extremely dangerous especially for pedestrians with any sort of mobility issues. Those intersections have poor visibility for drivers and make it very difficult for them to see or stop quickly enough to avoid a collision with patrons. The majority of public parking for the Library does require patrons to cross one of these intersections in order to get to the building. The Board has grave concerns for the safety of its patrons and other users of the intersections.

On behalf of the Library, we request that the city make the following changes to the intersections to ensure pedestrian safety:

Converting the intersection at Water St and 1st Ave to a 4-way traffic stop.

Repainting of the crosswalks and construction or placement of pedestrian right-of-way signage at both intersections

We believe such improvements will provide the safe crossing of First Avenue pedestrians. We thank you for your consideration in this matter and look forward to solving this issue quickly.

Sincerely,

Joseph Garber, Board President

Memorandum



To: Mayor Waligora and Municipal Council
From: Anna Soik, City Clerk/Treasurer/Finance Director AS
Date: December 15, 2021
Re: Changes to CPS 21 Guidelines for Poverty Exemption

Every year, the City is required to update Council Policy Statement (CPS) 21 to be compliant with the federal poverty guidelines. I worked through the changes with the Assessor, Allan Berg, and he is in full agreement. All of the changes are in red. A notable change is the applicant's asset level may not exceed \$20,000, as recommended by the Assessor. The previous limit was \$40,000. Another notable change recommended by the Assessor is the annual dividend income must be less than \$1,000 (previously \$1,400). Also, Public Act 253 of 2020 made changes related to granting full or partial poverty exemptions. The Board of Review can only grant 100%, 50% or 25% reduction in taxable for the year in which the exemption is granted. I've attached Bulletin 3 of 2021 from the State Tax Commission for additional information.

It is my recommendation as Clerk/Treasurer/Finance Director to amend CPS 21 *Guidelines for Poverty Exemption*, as presented, for calendar year 2022.

CITY OF ALPENA
COUNCIL POLICY STATEMENT

General Subject: Property Taxes	CPS No.	<u>21</u>
Specific Subject: Guidelines for Poverty Exemption	Date Issued:	<u>2-19-96</u>
	Effective Date:	<u>2-20-96</u>
	Revised Date:	<u>5-21-96</u>
	Amended:	<u>5-05-08</u>
	Amended:	<u>7-21-08</u>
	Amended:	<u>12-17-18</u>
	Amended:	<u>12-16-19</u>
	Amended:	<u>12-07-20</u>
	Amended:	<u>12-20-21</u>

Copies to: City Council, City Manager, City Attorney, Department Heads, DDA, File

PURPOSE:

The purpose of this policy is to establish guidelines for poverty exemption from real property tax.

STATEMENT OF POLICY:

1. To be eligible for a property exemption in the City of Alpena, a person must do all of the following on an annual basis:
 - a. Be the owner and must occupy the property as their principal residence for which the exemption is requested;
 - b. File *Form 5737 Application for MCL 211.7u Poverty Exemption and Form 5739 Affirmation of Ownership and Occupancy to Remain Exempt by Reason of Poverty* with the City Assessor within the specified application period;
 - c. File copies of federal and state income tax returns for all persons residing in the homestead, including any property tax credit forms and/or statement of benefits paid from Michigan Department of Social Services or Social Security Administration for the preceding or current tax year;
 - d. File a claim reporting that the combined assets of all persons do not exceed the current guidelines. Assets include but are not limited to, real estate other than the principal residence, personal property, motor vehicles, recreational vehicles and equipment, certificates of deposit, savings accounts, checking accounts, stocks, bonds, life insurance, retirement funds, etc.
 - e. Provide a valid driver's license or other form of identification, if requested;
 - f. Provide, if requested, a deed, land contract or other evidence of ownership of the property for which the exemption is requested;

- g. meet current federal poverty income guidelines. Federal poverty guidelines for assessment year **2022** are listed below:

Size of Family Unit	Poverty Guidelines
1	\$12,880
2	\$17,420
3	\$21,960
4	\$26,500
5	\$31,040
6	\$35,580
7	\$40,120
8	\$44,660
For each additional person	\$4,540

~~2. The applicant must have an annual dividend income (taxable & non-taxable) of less than \$1,400.~~

2. The applicant's asset level may not exceed ~~\$40,000~~ \$20,000.

a. The following are excluded from this limit:

1. The principal residence property, ~~however, excess land over 5 acres will count toward overall asset limit.~~
2. ~~One (1) automobile used for basic transportation. A second car may be excluded for a family with two or more working members at least 18 years of age or older. One personal vehicle.~~
3. Up to \$2,500 in all bank accounts held by the family unit. ~~All bank statements must be submitted with application.~~
4. ~~Annual dividend income (taxable & non-taxable) must be less than \$1,000.~~

b. The applicant shall complete an Asset Inventory including each of the following with estimated value:

1. Vehicles
2. Recreational vehicles such as campers, motorhomes, boats, ATVs, etc.
3. Jewelry, antiques, artworks
4. Equipment and other personal property of value
5. Bank accounts (aggregate value greater than \$2,500), stocks
6. Money received from the sale of personal property
7. Withdrawals of bank deposits and borrowed money
8. Gifts, loans, lump-sum inheritances and one-time insurance payments
9. Federal non-cash benefits from programs such as food stamps and school lunches

c. The applicant may not have ownership interest in any real estate other than the property on which their principal residence is located.

3. Poverty exemption from the Real Property tax shall be on an annual basis. Applications can be filed with the July or December Board of Review each year the exemption is sought.

4. The Board of Review may request identification of the applicant or proof of ownership of the principal residence property under consideration for poverty exemption.
5. The Board of Review may request any supporting documents which may be utilized in determining a poverty exemption request.
6. The completed poverty exemption application must be filed after January 1, but before the day prior to the last day of the Board of Review in the year for which the exemption is sought.
7. ~~The Board of Review may deviate from the established policy and guidelines only for substantial and compelling reasons. The applicant will be notified in writing of the reasons for deviating from policy and guidelines for poverty exemption.~~
The Board of Review is not permitted to deviate from the adopted policy and guidelines, according to PA 253. If the Board of Review determines that there are substantial and compelling reasons why there should be a deviation from the policy and federal guidelines, a partial exemption of 50% or 25% may be considered per MCL 211.7u(5)(b). Any partial exemptions or deviations from these guidelines shall be documented by the Board of Review in each instance. PA 253 allows the Board of Review to grant a 100%, 50%, or 25% reduction in taxable value. There are no other percentage reductions permitted unless approval is granted to the local unit by the State Tax Commission. The request must comply with the State Tax Commission Policy Regarding Requests for Percentage Reductions in Taxable Value for Poverty Exemptions and must be submitted using Form 5738.
8. ~~The Board of Review may grant exemption in whole or part based on the application and documentation filed.~~

Poverty Exemption as defined by the Michigan Compiled Laws is as follows:

Section 211.7u: The principal residence of persons who, in the judgment of the supervisor and board of review, by reason of poverty, is unable to contribute toward the public charges is eligible for exemption in whole or in part from ~~taxation the collection of taxes~~ under this act. This section does not apply to the property of corporations.

An applicant for poverty exemption must also comply with the following section of the Michigan Compiled Laws:

Section 211.118: Perjury: Any person who, under any of the proceedings required or permitted by this act shall willfully swear falsely, ~~will~~ shall be guilty of perjury and subject to its penalties.

Section 211.119: Willful Neglect: A person who willfully neglects or refuses to perform a duty imposed upon that person by this act, when no other provision is made in this act, is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or a fine of not more than \$300.00, and is liable to a person injured to the full extent of the injury sustained.

~~Attachments~~



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RACHAEL EUBANKS
STATE TREASURER

Bulletin 3 of 2021
February 9, 2021
MCL 211.7u Poverty Exemption

TO: Assessors and Equalization Directors
FROM: Michigan State Tax Commission
SUBJECT: MCL 211.7u Poverty Exemption

Bulletin 6 of 2017 is rescinded.

MCL 211.7u provides for a property tax exemption, in whole or part, for the principal residence of persons who, by reason of poverty, are unable to contribute to the public charges. For purposes of the poverty exemption "principal residence" means how principal residence exemption and qualified agricultural property are defined in MCL 211.7dd. The exemption does not apply to property of a corporation. This Bulletin includes updates made to MCL 211.7u by Public Act 253 of 2020.

Local Unit Responsibilities

MCL 211.7u requires local units to adopt guidelines that must include the specific income and asset levels of the applicant and the total household income and assets. If the local unit maintains a website, the local unit is required under the statute to make the policy, guidelines, and the poverty application (Form 5737) available to the public on the local unit's website. Additional items that the local unit should make available include the statutorily required Form 5739 (which must be filed by the applicant with Form 5737) and Form 4988, *Poverty Exemption Affidavit* (used by applicants who are not required to file federal and state income tax returns).

Income Test

Local units must adopt guidelines which specify the total household income which will be used to approve or deny poverty exemptions. The adopted income levels shall not be set lower than the federal poverty guidelines published in the prior calendar year in the Federal Register by the United States Department of Health and Human Services. For reference, the federal poverty guidelines to be used are published annually by the State Tax Commission.

According to the United States Census Bureau "income" includes, but is not limited to:

- Money, wages, salaries before deductions, regular contributions from persons not living in the residence
- Net receipts from non-farm or farm self-employment (receipts from a person's own business, professional enterprise, or partnership, after business expense deductions)

- Regular payments from social security, railroad retirement, unemployment, worker's compensation, veteran's payments, public assistance, supplemental security income (SSI)
- Alimony, child support, military family allotments
- Private and governmental retirement and disability pensions, regular insurance, annuity payments
- College or university scholarships, grants, fellowships, assistantships
- Dividends, interest, and net income from rentals, royalties, estates, trusts, gambling or lottery winnings

The Michigan homestead property tax credit **cannot** be considered as income for purposes of the poverty exemption. (*Ferrero v Walton Twp, Court of Appeals No. 302221*).

Asset Test

The local unit guidelines must include an asset test. This asset test must clearly state the maximum value of all assets allowable to be eligible for the poverty exemption. This means that the guidelines must state a total dollar amount and the value of all assets cannot exceed that total dollar amount.

The purpose of an asset test is to determine the resources available: cash, fixed assets or other property that could be converted to cash and used to pay property taxes in the year the poverty exemption is filed. The local unit asset test **cannot** include the value of the principal residence (*Robert Taylor v Sherman Twp, MTT Docket No. 236230*).

The local unit should require that applicants provide a list of all assets when applying for a poverty exemption. The State Tax Commission is providing the following list of assets that may be included in the local unit asset test (this is not an exhaustive list and is provided as examples of what may be considered as assets):

- A second home, land, vehicles
- Recreational vehicles such as campers, motor-homes, boats and ATV's
- Buildings other than the residence
- Jewelry, antiques, artworks
- Equipment, other personal property of value
- Bank accounts (over a specified amount), stocks
- Money received from the sale of property, such as, stocks, bonds, a house or car (unless a person is in the specific business of selling such property)
- Withdrawals of bank deposits and borrowed money
- Gifts, loans, lump-sum inheritances and one-time insurance payments
- Food or housing received in lieu of wages and the value of food and fuel produced and consumed on farms
- Federal non-cash benefits programs such as Medicare, Medicaid, food stamps and school lunches

The local unit policy may provide for an applicant to own possessions in addition to the principal residence and still receive a poverty exemption. Examples may include, but are not limited to:

- Additional vehicles
- More land than a minimum "footprint" for the home

- Equipment or other personal property of value, including recreational vehicles (campers, motor homes, boats, ATV's etc.)
- Bank account(s) (a maximum amount should be specified)

Full or Partial Poverty Exemptions

PA 253 of 2020 made changes related to granting full or partial poverty exemptions. MCL 211.7u(5) states that if a person claiming the poverty exemption meets all eligibility requirements, the Board of Review shall grant the poverty exemption, in whole or in part, as follows:

1. A full exemption equal to a 100% reduction in taxable value for the year in which the exemption is granted; or
2. A partial exemption equal to a 50% reduction in taxable value for the year in which the exemption is granted; or
3. A partial exemption equal to a 25% reduction in taxable value for the year in which the exemption is granted.

No other method of calculating taxable value may be utilized, except for those percentage reductions specifically authorized in statute, or any other percentage reduction approved by the State Tax Commission. Local assessing units wishing to use any other percentage reduction than what is stated in MCL 211.7u(5) must obtain permission for use of such percentage reduction(s) by filing Form 5738, *Request For Approval of Percentage Reduction in Taxable Value For Poverty Exemptions Under MCL 211.7u* with the State Tax Commission. The State Tax Commission has adopted a Policy Regarding Requests For Percentage Reductions In Taxable Value For Poverty Exemptions Under MCL 211.7u that details how these requests will be processed. The policy and Form 5738 are available on the State Tax Commission's website at <https://www.michigan.gov/statetaxcommission>.

The State Tax Commission recommends that local assessing units include within their guidelines language and criteria for granting partial exemptions and/or minimum or maximum exemptions.

Extension Of Poverty Exemptions

PA 253 of 2020 adds two provisions in which the local assessing unit can adopt a resolution that would allow a taxpayer to continue to receive a poverty exemption without having to file a new Form 5737 and other required documents each year. Local units **must** adopt resolutions to utilize these provisions and the requirements in the statute must be met.

MCL 211.7u(6): Extension For Those Persons Receiving A Fixed Income From Public Assistance

Local units can adopt a resolution that allows an exemption granted in 2019 or 2020 to carry forward to 2021, 2022 and 2023 for those persons who receive a fixed income solely from public assistance that is not subject to significant annual increases (Federal Supplemental Security Income, Social Security disability or retirement benefits).

Local units can also adopt a resolution for any new exemptions in 2021, 2022 or 2023 to remain exempt for up to 3 years for persons who receive a fixed income solely from public assistance that is not subject to significant annual increases.

A person that receives an extended exemption under MCL 211.7u(6) must file an affidavit rescinding the exemption with the local assessing unit within 45 days after: 1) ceasing to own and occupy the

property as a principal residence; or 2) a change in household assets or income that defeats eligibility for the poverty exemption. If the person fails to file the required rescission and the property is later determined to be ineligible for the exemption, the person is subject to repayment of any additional taxes with interest as provided in MCL 211.7u(6)(b).

MCL 211.7u(8): Extension Applicable to the 2021 Tax Year Only

If the assessor determines that a person is still eligible for the poverty exemption in 2021 and the person received a poverty exemption for the property in tax year 2019 or 2020, or both, local assessing units can carry the poverty exemption forward for the 2021 tax year, without an application or protest to the Board of Review in 2021. **Local units must adopt a resolution by February 15, 2021 to carry the exemption forward.** If an exemption is carried forward to 2021 no Form 5737 or other documentation is required from the taxpayer and they do not have to protest to a Board of Review. However, the statute provides that the local assessing unit *may* require that the person affirm ownership, poverty, and occupancy status in writing by filing Form 5739.

Local Unit Audit Program Requirement

Local units that adopt a resolution to extend the poverty exemption under MCL 211.7u(6) for up to 3 years for those persons who receive a fixed income solely from public assistance or local units that carry the 2019 and 2020 granted poverty exemptions forward to 2021 under MCL 211.7u(8) must implement an audit program. If found ineligible, the taxpayer is subject to repayment of the taxes plus interest as provided in MCL 211.7u(6)(b). The State Tax Commission's guidance on the required local unit audit program will be published in a separate bulletin.

How To Apply For The Poverty Exemption

To request a poverty exemption, a taxpayer must file:

1. Form 5737 *Application for MCL 211.7u Poverty Exemption*
2. Form 5739 *Affirmation of Ownership and Occupancy to Remain Exempt by Reason of Poverty*
3. All required additional documentation (such as federal/state income tax returns)

Forms 5737 and 5739, along with any additional documentation, must be filed with the local assessing unit where the property is located. **Do not file these forms with the Department of Treasury or the State Tax Commission.** The forms may be submitted to the local assessing unit on or after January 1 but before the day prior to the last day of the December Board of Review during the year in which the exemption is requested.

Taxpayers should contact the local assessing unit directly to verify deadline dates for submission of the forms to ensure the application gets reviewed by a Board of Review during that calendar year.

In addition to filing Forms 5737 and 5739 and any supporting documentation, a taxpayer must do all the following to be eligible for the poverty exemption:

1. Own and occupy the property as a principal residence.
2. Provide federal and state income tax returns for the current or immediately preceding year, including any property tax credits, for all persons **residing in the principal residence** (disclosure of the income of an owner who is not residing in the principal residence is not

required). Federal and state income tax returns are not required for a person residing in the principal residence if that person was not required to file a federal or state income tax return. Instead, Form 4988, *Poverty Exemption Affidavit* may be filed for all persons residing in the residence who were not required to file federal or state income tax returns in the current or immediately preceding year.

3. Produce a valid driver license or other form of identification, if requested.
4. Produce a deed, land contract, or other evidence of ownership of the property, if requested.
5. Meet the federal poverty guidelines published in the prior calendar year in the Federal Register by the United States Department of Health and Human Services or alternative guidelines adopted by the local assessing unit. The alternative guidelines cannot provide income eligibility requirements less than the federal guidelines.
6. Meet the asset level test adopted by the local assessing unit.

Board of Review Responsibilities

The Board of Review shall approve or deny the request for the poverty exemption. The Board of Review is required to follow the policy and guidelines adopted by the local assessing unit in granting or denying a poverty exemption. The Board of Review is not permitted to deviate from the adopted policy and guidelines.

Poverty exemption applications can be heard at the March, July, or December Board of Review. However, there can only be **one** Board of Review decision for a specific calendar year; a subsequent Board of Review cannot reconsider a decision already made that year. For example: if an application is denied at the March Board of Review, it may not be reheard by the July or December Board of Review during the same calendar year. The taxpayer must file an appeal of the March Board of Review decision to the Michigan Tax Tribunal.

As a reminder, a person who files a claim for the poverty exemption is not prohibited from also appealing the assessment on the same property in the same year.

Appeal Rights

An appeal of a decision of the March Board of Review is made by completing and submitting a petition to the Michigan Tax Tribunal no later than July 31 of the same year. A decision of the July or December Board of Review may be appealed by completing and submitting a petition to the Michigan Tax Tribunal within 35 days of the July or December Board of Review's decision. More information on how to file an appeal is available by contacting the Michigan Tax Tribunal. Information can also be viewed on the Michigan Tax Tribunal's website at <https://www.michigan.gov/taxtribunal>.

Memorandum



Date: December 20, 2021

To: Mayor Waligora and City Council

From: Kathy Himes, HR Director

Subject: Contract with Gilmet Construction Services

Staffing the Building Department during the past year has been a bit challenging. First, the department reorganized and now works in collaboration with the Planning and Development as the Planning, Development, and Zoning Department. Next, three long-time employees who collectively had more than 80 years of experience retired. Finally, three newly hired employees moved on to other opportunities. However, through the many obstacles, we are pleased that three forward thinking, progressive staff members are working hard to take this department to a new level.

During this transition, in an effort to assist with the many changes, and the occasional, unexpected obstacles, Donald Gilmet, of Gilmet Construction Services, has provided his knowledge and expertise to the City on multiple occasions. During the past several months, Don has provided staff training, completed rental inspections, worked on code enforcement, performed building inspections, and much more. Gilmet Construction Services has been invaluable as the City moves the department forward. The City currently has a contract with Gilmet Construction Services for the time Don spends assisting staff with various tasks. The attached contact expands those services to include the use of his Building Official's license. The City is required by the state to operate under a Building Official.

Moving forward, to fill a vacant Building Inspector position in PDZ, the City is advertising on social media and various websites. However, filling positions throughout Michigan (and the country) continues to be tough. As we move forward with the existing staff,

the City must find the perfect fit for the department, and citizens. This department has a bright future. Therefore, the individual who fills the vacancy will need to be committed to helping PDZ rise to a new level. Hiring someone with a Building Official's license would be ideal, but the City is realistic, and that may not be possible at this time. We do, however, have staff committed to obtain a Building Official's license in the future.

City Manager Smolinski and I will keep you updated on recruitment and the progress that is made on filling the vacant position. In the meantime, the City will lean heavily on Don Gilmet for the use of his Building Official's license and his extensive knowledge. Therefore, it is my recommendation to approve the attached contract with Gilmet Construction Services for assistance with the Planning, Development, and Zoning Department/Building Department to ensure the City meet requirements set forth by the State of Michigan and remains in compliance with Public Act 230 of 1972 as it applies to a governmental subdivision enforcing the State Construction Code, and ensuring new Building Inspectors are in compliance with Public Act 407. Additionally, I recommend the authorization from Council to allow City Manager Smolinski to sign the attached contract with Gilmet Construction Services for the services outlined.

GILMET CONSTRUCTION SERVICES

**220 E. Crapo Street
Alpena, MI 49707
989-356-9795
989-916-5108 Cell**

Donald H. Gilmet

State of Michigan License Numbers

Builders License - 2101127891

State Building Inspector, Plan Reviewer and Building Official Registration - 4521

Soil Erosion and Sedimentation Control Certification – SE/C 01345

Storm Water Management – Construction Site – Certificate – C-16254

Contract for Building Official Services

This contract is between the City of Alpena and Donald H. Gilmet, Gilmet Construction Services, for Building Department Assistance, and will serve as the City of Alpena's Building Official.

Building Official Services

1. Gilmet Construction Services will perform Building Official Services at a rate of \$2,500 per month effective January 1, 2022 .
2. Services will include, but are not limited to, ensuring that the City of Alpena is in compliance with Public Act 230 of 1972 as it applies to a governmental subdivision enforcing the State Construction Code, and ensuring new Building Inspectors are in compliance with Public Act 407.
3. Work as requested by the City of Alpena City Manager, or their designee, on an as needed basis.
4. Help PDZ Director with the Department Budget as needed.
5. Other duties as required.
6. City of Alpena is responsible for Errs and Omissions insurance coverage for Donald H. Gilmet for work performed on behalf of the City of Alpena.
7. Gilmet Construction Services is not an employee of the City of Alpena.
8. Services performed by Gilmet Construction Services will be billed monthly and submitted through the City Manager, or the designee.

This contract may be terminated with thirty-days (30) notice by either party. Contract may be terminated by the City of Alpena immediately for just cause.

Donald Gilmet Date

City of Alpena Date


Memorandum



Date: December 14, 2021

To: Mayor and City Council Members

Copy: Rachel Smolinski, City Manager
Anna Soik, City Clerk/Treasurer/Finance Director

From: Stephen Shultz, City Engineer 

Subject: Security Improvements

In fiscal year 20-21, Meridian Contracting Services completed security improvements at the SUEZ utility office, the DPW lobby office, and the Clerk's Office in City Hall. The remaining office requiring security upgrades is the Planning, Development, and Zoning lobby. This project was originally discussed with the Contractor, but staff elected not to complete it last fiscal year.

We received a quote of \$21,220 from Meridian to construct the security upgrades in the Planning, Development, and Zoning lobby similar to those done in the Clerk's Office. This work was not budgeted in this fiscal year, but staff believes that it should still be completed as soon as possible.

Staff was pleased with Meridian's work at each site previously and the intention would be to utilize them for this project as well. Due to the delicate and confidential nature of the security upgrades themselves, Council previously approved using Meridian without the competitive bid process, I would request the same for this project.

Further, City Council would also need to approve a budget amendment to transfer \$21,220 from fund balance to the Cap-Building Maintenance fund.

Attachment

BUDGET AMENDMENT REQUEST

FUND: General Fund

DEPARTMENT: Building & Grounds

PROJECT DESCRIPTION: PDZ Security Improvements

Account No.	Account Description	Current Budget	Proposed Increase or (Decrease)	Proposed Budget
101-265-972.000	Cap-Building Maintenance	\$13,000	\$21,220	\$34,220
Fund Balance	General Fund Balance		(\$21,220)	(\$21,220)

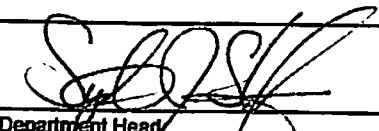
Justification for Budget Amendment

To complete security upgrades in the PDZ lobby at City Hall - Not Budgeted

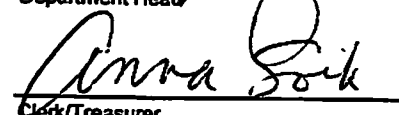
Michigan Uniform Accounting and Budget Act:

** Requires budget amendments before any expenditures exceed the budget.

** The City Manager and City Clerk/Treasurer/Finance Director are authorized by the Municipal Council to make budgetary transfers within the departments established through this budget. All transfers between departments or funds or from fund balance may be made only by further action of the Municipal Council.



Department Head 15-Dec-21
Date



Clerk/Treasurer 12/16/21
Date



City Manager 12/16/21
Date

City Council Date