

ALPENA CITY COUNCIL MEETING

January 03, 2023 – 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 of and Proposed Modifications to the Agenda.
4. Approve Minutes – Regular Session of December 19, 2022.
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 Hearing.
7. Consent Agenda.
 - A. Bills to be Allowed, in the Amount of \$237,428.57.
 - B. Collection of 2023 Property Taxes for Alpena Public Schools.
 - C. Approval of Councilwoman Cindy Johnson and City Manager Rachel Smolinski as representatives to the Northeast Michigan Materials Management Authority Board with the first meeting held on Thursday, January 19, 2023, at 5:30 pm.
 - D. Budget Amendment to Decrease the Expense for the Thunder Bay River Center Project in the Amount of \$8,050, which also Decreases the Amount Needed from Committed Fund Balance.
8. Presentations.
 - A. Retirement Recognition for Joel Jett, retired Alpena Police Chief – Chief Todd Woods, Mackinaw City Police Department and President, Northern Michigan Association of Chiefs; Chief Kyle Knight, Harbor Springs Police Department and Secretary/Treasurer, Northern Michigan Association of Chiefs; and Lt. Eric Hamp, Alpena Police Department.
 - B. Pinning Ceremony and Oath of Office for new Police Chief Eric Hamp – Rachel Smolinski, City Manager and Joel Jett, retired Alpena Police Chief.
9. Announcements.
10. Mayoral Proclamation.
11. Report of Officers.
 - A. Second Reading of Ordinance No. 22-483 Which Amends the City of Alpena Zoning Map – Bill Pfeifer, City Attorney.
 - B. First Reading of Ordinance No. 23-484 Which Amends Chapter 18, Section 18-1 of the Medical Marihuana Facilities and Adult-Use Marihuana Establishments – Bill Pfeifer, City Attorney.

12. Communications and Petitions.
13. Unfinished Business.
14. New Business.
15. Adjourn to Closed Session to Discuss: (1) Updates on Sewer and Water Litigation; and (2) Pending ARC Family Enterprises, Inc. v City of Alpena Tax Appeal.
16. Return to Open Session.
17. Adjourn.



Rachel Smolinski
City Manager

COUNCIL PROCEEDINGS

December 19, 2022

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

Present: Mayor Waligora, Mayor Pro Tem Johnson, Councilmember Mitchell, Councilmember Nowak, and Councilmember Walchak.

Absent: None.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OF THE AGENDA

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

Motion carried 5-0.

MODIFICATION TO THE AGENDA

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Nowak, to move the presentations for retirement to after the approval of the minutes.

Motion carried 5-0.

MINUTES

The minutes of the regular and closed sessions of December 05, 2022, were approved as printed.

RETIREMENT RECOGNITION

Firefighter/EMT, Bruce Honeycutt, was recognized for 2 years of service to the City of Alpena and Fire Chief Bill Forbush for 12 years of service. Both gentlemen were

commended for their service and presented with a ceremonial axe.

PUBLIC HEARING TO CHANGE CITY ELECTIONS TO EVEN YEARS

A public hearing was conducted to change City elections from odd-numbered years to even-numbered years. A report was given by Anna Soik, City Clerk. A public comment period was opened. There were no written comments received by the City Clerk. The public hearing was then closed, and council discussion ensued.

Moved by Councilmember Nowak, seconded by Councilmember Mitchell, to approve Resolution No. 2022-18.

Motion carried by votes as follows:

Ayes: Nowak, Walchak, Waligora, and Mitchell.

Nays: Johnson.

Absent: None.

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 \$427,158.16.
- B. Approval of an extension period until May 31, 2023, with WSSA LLC, for the purchase of two front lots located at US 23 North.
- C. Budget amendment request to decrease the revenue for the American Rescue Plan Act Fund in the amount of \$521,040.
- D. Renew the 2023 Property and Liability Insurance Policy with the Michigan Municipal League for \$145,138, set to expire on December 31, 2023.
- E. Approve the Michigan Recreation Passport Grant Agreement, authorize the Mayor to sign, and adopt Resolution No. 2022-23.

Motion carried 5-0.

ORDINANCE 22-483

Attorney Pfeifer delivered the first reading of Ordinance No. 22-483 which is to amend the City of Alpena zoning map.

COSTS AND VOTER TURNOUT OF NOVEMBER ELECTION

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Walchak, to receive and file the costs and voter turnout report for the November 8, 2022 General Election.

Motion carried 5-0.

WATER FLUORIDATION

Moved by Councilmember Nowak, seconded by Councilmember Walchak, to choose option 3 and to direct City staff to eliminate the addition of fluoride in the drinking water beginning on May 1, 2023 and to prepare a news release to inform the public a minimum of 10 days prior.

Motion carried 5-0.

GUIDELINES FOR POVERTY EXEMPTION

Moved by Mayor Pro Tem Johnson, seconded by Councilmember Nowak, to vacate Council Policy Statement No. 21, Guidelines for Poverty Exemption, effective December 31, 2022.

Motion carried 5-0.

Moved by Councilmember Walchak, seconded by Mayor Pro Tem Johnson, to adopt Resolution No. 2022-22 for 2023 Poverty Exemption.

Motion carried 5-0.

ADJOURN

On motion of Councilmember Nowak, seconded by Councilmember Mitchell, the
Municipal Council adjourned at 7:44 p.m.

Matthew Waligora
Mayor

ATTEST:

Anna Soik
City Clerk

INVOICE REGISTER

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EXP CHECK RUN DATES 12/30/2022 - 12/30/2022

UNJOURNALIZED

OPEN - CHECK TYPE: PAPER CHECK

VENDOR	INVOICE #	DESCRIPTION	AMOUNT
AIRGAS USA LLC	9133131385	SUPPLIES - EMS DISP	49.82
AIRGAS USA LLC	9132993217	SUPPLIES - MARINA	8.19
AIRGAS USA LLC	9132570928	SUPPLIES - EMS DISP	55.19
AIRGAS USA LLC	9133129268	VEH MAINT - EQ	17.14
AIRGAS USA LLC	9993009991	SUPPLIES - EMS DISP	19.17
ALPENA DIESEL SERVICE	75356	VEH MAINT - EQ	499.89
ALPENA DIESEL SERVICE	75501	VEH MAINT - EQ	597.63
ALPENA POWER COMPANY	123022	ELECTRIC	14,686.30
AMAZON CAPITAL SERVICES INC	1XP4-9WDY-RG3T	SUPPLIES - POLICE	55.19
AMAZON CAPITAL SERVICES INC	1FRJ-9C6K-XKV7	SUPP/MAINT - POL/FIRE/EMS	47.74
AMAZON CAPITAL SERVICES INC	1HXJ-R3FF-RJ4K	SUPPLIES - PUBLIC SAFETY	265.55
AMAZON CAPITAL SERVICES INC	1V7R-DQ1V-VWP1	SUPPLIES - PUBLIC SAFETY	18.33
AMERICAN RAMP COMPANY	7495	SKATE PARK RAMP MATERIAL	9,995.00
ANN SEARLES BFS - MIP SUMMIT	123022	MFR TRAINING - EMS	146.00
BERG ASSESSING & CONSULTING INC	22-0000828	ASSESSING CONTRACTED SVCS 01/23	7,366.00
BOUND TREE MEDICAL LLC	84791494	SUPPLIES - EMS DISP	208.48
BOUND TREE MEDICAL LLC	84794935	SUPPLIES - EMS DISP	208.48
BOUND TREE MEDICAL LLC	84786708	SUPPLIES - EMS DISP	475.99
BOUND TREE MEDICAL LLC	84789781	SUPPLIES - EMS DISP	646.95
CARRIER & GABLE INC	IN31785	TRAFFIC SIGNAL MAINT - MAJ ST	199.25
CASEY STUTZMAN	123022	TRAVEL ADVANCE - POLICE	175.00
CHARTER COMMUNICATIONS	0161607122122	FAX LINE - PUBLIC SAFETY	39.99
DEAN ARBOUR FORD LINCOLN MERCURY	175287	VEH MAINT - POLICE	3,420.93
DTM SOLUTIONS	3149	OPEN ROADS - SEW/WATER	8,800.00
FARM BUREAU INSURANCE OF MI	AP22-2996C	AMBULANCE REFUND	116.00
FASTENAL COMPANY	MIALP196173	VEH MAINT - EQ	51.06
FASTENAL COMPANY	MIALP195976	SUPPLIES - PW	240.91
FOUNDATION RADIOLOGY GROUP PC	MM6065299X1	EMPLOYEE PHYS - BLDG/GRDS	37.00
GEORGIES TOWING & WRECKER SVC	22-09758	VEH MAINT - EQ	150.00
GILMET CONSTRUCTION SERVICES	123122	BUILDING/ZONING/CODE/PLANNING SVCS 12	2,500.00
KAYLA WILLIAMS	AP21-0522C	AMBULANCE REFUND	15.00
LEFAVE PHARMACY INC	49294	SUPPLIES - EMS DISP	6.94
LERMA INC	2023	2023 MEMBERSHIP DUES	60.00
MERIDIAN CONTRACTING SERVICES LLC	2447	VALVE REPLACEMENT - WTP	137,801.00
MFSIA	12162022-270	MFR TRAINING - EMS	180.00
MHR BILLING SERVICES	4299	BILLING 11/22 - EMS	4,558.20
MICHIGAN ASSOCIATION OF PLANNING	68266	REGISTRATION - ENG	55.00
MOTOROLA SOLUTIONS INC	8281522496	SUPPLIES - FIRE/EMS	704.04
NEMCOG/AARF	123022	MAINT - PUBLIC SAFETY	68.00
NORTHERN MICHIGAN CODE	123022	MEMBERSHIP DUES - BLDG	100.00
NORTHERN MICHIGAN CODE	123022B	MEMBERSHIP DUES - BLDG	100.00
NYE UNIFORM COMPANY	838293	UNIFORMS - POLICE	99.50
NYE UNIFORM COMPANY	830249	UNIFORMS - POLICE	517.90
NYE UNIFORM COMPANY	837387	UNIFORMS - POLICE	95.53
OMEGA ELECTRIC & SIGN CO INC	25748	SUPPLIES - POLICE	165.00
PITNEY BOWES INC	1022111579	POSTAGE METER RENT 10-12/22	176.97
PRINTING SYSTEMS INC	226265	SUPPLIES - ELECTION	93.92
PRINTING SYSTEMS INC	224414	SUPPLIES - ELECTION	248.32
SOLUCIENT SECURITY SYSTEMS	521491	MAINT - PUBLIC WORKS	107.25
STAPLES	3525200301	SUPPLIES - BLDG	59.87
STERICYCLE INC	8002969688	SHRED CONTAINER RENT/SVC 11/22	99.65
TELEFLEX LLC	9506355138	SUPPLIES - EMS DISP	1,115.50
TENURGY LLC	ALP-134	UTILITY RATE SAVINGS 11/22	242.89
THE ALPENA NEWS	110098	PUBLISHING/ADVERTISING	563.08
THUNDER BAY BLOCK PRODUCTS	21-3657	BLOCK PICK-UP - MAJ ST	375.00
THUNDER BAY ELECTRIC INC	232080	MAINT - LIGHTS	2,988.36
THUNDER BAY ELECTRIC INC	232120	TRAFF SIGNAL MAINT - MAJ ST	49.79
THUNDER BAY ELECTRIC INC	232150	MAINT - CH/PW/PSF	311.69
THUNDER BAY ELECTRIC INC	232183	MAINT - LIGHTS	1,842.23
UP ENGINEERS & ARCHITECTS INC	2300319	DESIGN SVCS - THUNDER BAY CENTER WAT	1,350.00
UP ENGINEERS & ARCHITECTS INC	2300320	DESIGN SVCS - BAYVIEW PARK PAVILION	3,800.00
WITMER PUBLIC SAFETY GROUP	INV154950	UNIFORMS - FIRE/EMS	130.77

Total: 209,178.58

CHECKS RAN ON 12/22/22 (BREAKDOWN OF INVOICES PAID ATTACHED)

28,249.99

TOTAL FOR 1/3/23 COUNCIL MEETING

237,428.57

INVOICE REGISTER

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EXP CHECK RUN DATES 12/22/2022 - 12/22/2022

UNJOURNALIZED

OPEN - CHECK TYPE: PAPER CHECK

VENDOR	INVOICE #	DESCRIPTION	AMOUNT
ALPENA POWER COMPANY	122222	ELECTRIC	11,193.46
DTE ENERGY	122222	NATURAL GAS	13,782.70
VERIZON WIRELESS	9922577791	CELL PHONES	677.54
VERIZON WIRELESS	9922577792	CELL PHONES/IPADS	2,596.29
		Total:	28,249.99



Leslie Reynolds, Administrative Assistant

2373 Gordon Road, Alpena, MI 49707

T: 989-358-5043 | reynoldsl@alpenaschools.com

December 5, 2022

Ms. Anna Soik
City of Alpena
208 North First Avenue
Alpena, MI 49707



Dear Ms. Soik :

Enclosed is a copy of a resolution adopted by the Board of Education of the Alpena Public Schools of Alpena and Presque Isle Counties. The Board, pursuant to statute, has determined to impose a summer property tax levy in 2023 of 100 percent of school district property taxes, including debt service.

Adoption of this resolution allows the District to collect summer taxes provided the details can be worked out with the taxing units; and therefore, the Board has adopted such resolution for many years as a matter of course. It does not obligate you to collect summer taxes.

We recognize these are difficult economic times for all local governments, and that it may not be feasible given our budgetary constraints, as well as yours, to come to an agreement that is mutually beneficial. However, if the City of Alpena is interested in pursuing an agreement this year, please contact the Board in care of the undersigned for the purpose of negotiating an agreement for reasonable expenses of collecting the District's summer tax levy. If the City of Alpena does not agree to collect the District's summer tax levy, please notify the Board of Education in care of the undersigned by January 13, 2023 either by letter or e-mail correspondence.

Sincerely,

A handwritten signature in blue ink that reads 'Leslie Reynolds'.

Leslie Reynolds
Secretary to the Board of Education

Enclosure: APS Annual Summer Tax Resolution

Annual Summer Tax Resolution

Alpena Public Schools (the "District")

A regular meeting of the board of education of the District (the "Board") was held at Hinks Elementary School, 7667 US 23, Alpena, MI 49707, within the boundaries of the District, on the 28th day of November, 2022, at 5:30 o'clock in the p.m.

The meeting was called to order by Ned Heath, President.

Present Members: Heath, Meinhardt, Lawson, Parr, Gembel, Snow and Hilberg

Absent Member: None

The following preamble and resolution were offered by Member Parr and supported by Member Snow:

WHEREAS, this Board previously adopted a resolution to impose a summer tax levy to collect 100% of annual school property taxes, including debt service, upon property located within the District and continuing from year-to-year until specifically revoked by the Board.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board, pursuant to 1976 PA 451, as amended (the Revised School Code), invokes for 2023 its previously adopted ongoing resolution imposing a summer tax levy of all of annual school property taxes, including debt service, upon property located within the District and continuing from year-to-year until specifically revoked by the Board and requests that each city and/or township in which the District is located collect those summer taxes.

2. The Superintendent or designee is authorized and directed to forward to the governing body of each city and/or township in which the District is located a copy of this Board's resolution imposing a summer property tax levy on an ongoing basis and a copy of this resolution requesting that each such city and/or township agree to collect the summer tax levy for 2023 in the amount specified in this resolution. Such forwarding of the resolutions and the request to collect the summer tax levy shall be performed so that they are received by the appropriate governing bodies before December 31, 2022.

3. Pursuant to and in accordance with Section 1613(1) of the Revised School Code, the Superintendent or designee is authorized and directed to negotiate on behalf of the District with the governing body of each city and/or township in which the District is located for the reasonable expenses for collection of the District's summer tax levy that the city and/or township may bill under MCL 380.1611 or MCL 380.1612. Any such proposed agreement shall be brought before this Board for its approval or disapproval.

4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

Ayes: Members: Lawson, Meinhardt, Gembel, Snow, Hilberg, Parr and Heath

Nays: Members: None

Resolution declared: Adopted


Secretary, Board of Education

The undersigned duly qualified and acting Secretary of the Board of Education of Alpena Public Schools, Alpena and Presque Isle Counties, hereby certifies that the foregoing constitutes a true and complete copy of a resolution adopted by the Board at a regular meeting held on November 28, 2022, the original of which is part of the Board's minutes. The undersigned further certifies that notice of the meeting was given to the public pursuant to the provisions of the "Open Meetings Act" (Act 267, Public Acts of Michigan, 1976, as amended).


Secretary, Board of Education



ALPENA RESOURCE RECOVERY BOARD

Collaboration between Alpena County, City, and Townships to Provide Resource Recovery Services for Residents of Alpena County

Alpena Resource Recovery Facility
(989) 354-2607
4395 West M-32, Alpena

CORRECTED LETTER 12-15-22

December 15, 2022

County of Alpena
City of Alpena
Charter Township of Alpena
Township of Green
Township of Long Rapids
Township of Maple Ridge
Township of Ossineke
Township of Sanborn
Township of Wellington
Township of Wilson

RE: Membership of the Northeast Michigan Materials Management Authority

Dear County Board of Commissioners, City Council and Township Boards,

I am writing to you invite your representatives to the first Northeast Michigan Materials Management Authority Board meeting on Thursday, January 19, 2023 at 5:30 p.m. at the Charter Township of Alpena. Please confirm whether you are able to attend or not no later than Thursday, January 12, 2023 to Cindy Johnson cindyj@alpena.mi.us or call 989-916-5190.

Please mark your calendar for monthly meetings to be held on the third Thursday of each month at 5:30 p.m. to be held at the Charter Township of Alpena.

The Northeast Michigan Materials Management Authority Board will be comprised of between seven (7) and thirteen (13) representatives from the following: two (2) representatives from the County of Alpena, two (2) representatives from the City of Alpena; two (2) representatives from Charter Township of Alpena Township Board; and up to seven (7) representatives total made up of one each from the following: Green, Long Rapids, Maple Ridge, Ossineke, Sanborn, Wellington and Wilson Townships providing a geographic distribution to ensure representation from all areas. These appointments shall be made annually, or according the rules of the constituent bodies. Each term is for board of the Northeast Michigan Materials Management Authority shall three (3) years.

Regards,

Cindy Johnson
Recycling Chair

BUDGET AMENDMENT REQUEST

FUND: 101 - General Fund
 DEPARTMENT: 751 - Parks and Rec
 PROJECT: _____

Account No.	Account Description	Current Budget	Proposed Increase or (Decrease)	Proposed Budget
101-751-976.019	CAP - Island Park River Center	\$32,126	(\$8,050)	\$24,076
101-000-380.006	Fund Balance - River Center	\$47,474	\$8,050	\$55,524

Justification for Budget Amendment

In kind donations are being made to the Thunder Bay River Center project. This results in the expenditure needing to be reduced

and also decrease the amount needed to be used of committed fund balance.

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.

Montel Birch 12/21/22
 Department Head Date

Anna Sork 12/21/22
 Clerk/Treasurer Date

Rocky Swolinski 12/21/22
 City Manager Date

 City Council Date

City of Alpena Ordinance No. 22- 483

An ordinance to amend the City of Alpena Zoning Map.

City of Alpena, Alpena County, Michigan ordains:

SECTION 1: AMENDMENT TO THE CITY OF ALPENA ZONING MAP

That the City of Alpena Zoning Ordinance Zoning Map is hereby amended as follows:

The parcel located at 423 South 7th Ave shall be conditionally rezoned from R-2 to R-T to allow for the legal conversion of the property to a duplex. Statement of Conditions is as follows and will be recorded with the register of deeds: *I would like to use property as a duplex.*

SECTION 2: SEVERABILITY

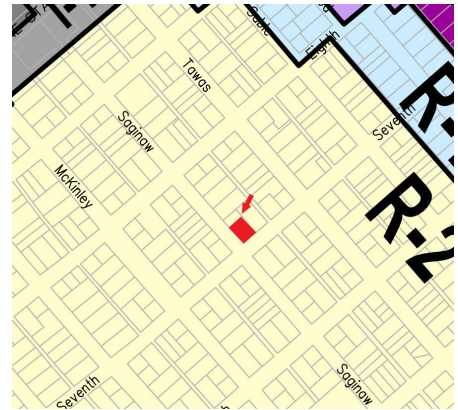
If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence,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



Matthew J. Waligora, Mayor

Anna Soik, Clerk/Treasurer/Finance Director

I, Anna Soik, Clerk/Treasurer/Finance Director for the City of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. 22-483 of the City of Alpena, adopted at a meeting of the Alpena City Council held on January 3, 2023.

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

First Reading: December 19, 2022

Adopted: January 3, 2023

Published: _____

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

ORDINANCE NO. 23-484

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 BUSINESSES¹

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 uniform 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

¹Cross reference(s)—Amusements and entertainment, ch. 6; community development, ch. 26; railroads, ch. 70; secondhand goods, ch. 74; taxation, ch. 86; telecommunications, ch. 90; utilities, ch. 98; vehicles for hire, ch. 106.

- 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 establishments 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 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.
- (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 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 section to grant or deny an application described in this section 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 section.
 - 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 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 (8)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 (8)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 **expire on the same day as the State of Michigan license.** ~~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 **may be renewed subject to renewal of the State of Michigan license and local approval; license expires on the same day as the State of Michigan license.** ~~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 **digitally; hard copies may be requested 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. **"Approved for prequalification" letter from the State of Michigan.**
 - ~~1-~~ 2. Proof of ownership or authorization to use the property for a medical marihuana facility or adult use marihuana establishment.
 - ~~2-~~ 3. 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;

- 3-4. 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.
- 4-5. 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 (8)b; applications not in completed status within one year of initial submission must be resubmitted in its entirety and a new non-refundable application fee must be paid.
- c. For ~~medical marihuana provisioning centers, marihuana retailers, and marihuana microbusinesses,~~ medical marihuana facilities or adult use marihuana establishments, the following shall apply, except for Secure Transporters where applicable:
1. At least one applicant shall demonstrate experience with owning (51 percent or more), operating, and/or managing a business with inventory tracking and control (min. of one 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 percent or more), operating, and/or managing a business in a highly regulated industry (min. of one 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 location plan as outlined by the State of Michigan and should which also includes a daily operations schedule outlining opening and closing procedures.
 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 percent or more interest in the company have not been subject to any civil monetary judgements entered against it in the last seven years, excluding family law matters or estate disputes.
 8. Applicant shall present a sworn attestation that the Applicant and/or parties with 25 percent or more interest in the company have not filed bankruptcy within the last seven 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 includes 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 percent 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 (10)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 (12).

(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 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 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 license for the facility or establishment.
- e. Maintaining a valid medical marihuana facility or adult use marihuana establishment license issued by the state 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)~~ **sixty (60)** days prior to the date of its expiration **and the license may be extended up to 60 days pending renewal by the State of Michigan and verification of submission.**
 - 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. **The license will be considered null and void and all operations must immediately cease by order of law enforcement.**

- 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 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 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 **by the local licensing authority**:
 - 1. *Persons.* Any transfer of more than one percent of an ownership interest in an applicant or permit holder between persons constitutes a transfer of ownership.
 - 2. *Corporations.* Any transfer of more than one percent 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 one percent 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 one percent 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 one percent 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 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 as defined and contained in Chapter 50, Nuisances of the City of Alpena Code of Ordinances, 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.~~
 - 1. All business operations of a facility or establishment must occur indoors.
 - 2. Facilities and establishments ~~may shall~~ not provide drive-thru service, ~~but may provide curbside service based on an approved site plan. All curb-side pick-up orders must be paid for in advance; exchange of payment shall not occur outside.~~
 - 3. ~~Approval from the State of Michigan to allow delivery to residential addresses must be provided to the City of Alpena once approved by the State of Michigan.~~
 - 4. ~~The growth and cultivation of marihuana outdoors is not permitted.~~
 - 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, ~~curbside pickup 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.

(Ord. No. 20-454, 6-1-20; Ord. No. 21-459, 6-21-21; Ord. No. 21-467, 12-20-21)

Editor's note(s)—Ord. No. 20-454, adopted June 1, 2020, amended the Code by repealing former § 18-1 and adding a new § 18-1. Former § 18-1 prohibited marihuana businesses and establishments within the city, and derived from Ord. No. 19-443, adopted March 4, 2019. Prior to inclusion of 19-443, § 18-1 pertained to a moratorium on issuance of permits or licenses for sale or dispensation of medical marihuana within the city, and derived from Ord. No. 10-399, adopted September 7, 2010.

Secs. 18-2—18-30. Reserved.

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 _____ 2023.

Matthew J. Waligora
Mayor

Anna Soik
City Clerk/Treasurer/Finance Director

First Presented: January 3, 2023
Adopted: _____
Published: _____, 2023

William A. Pfeifer, City Attorney