

TOWNSHIP OF ARLINGTON
VAN BUREN COUNTY, STATE OF MICHIGAN
ORDINANCE NO. 2020-01
ADOPTED: MAY 20, 2020
EFFECTIVE: JUNE 28, 2020

MARIHUANA BUSINESS ORDINANCE

AN ORDINANCE OF THE TOWNSHIP OF ARLINGTON, MICHIGAN TO ESTABLISH REQUIREMENTS FOR MEDICAL MARIHUANA FACILITIES AND ADULT-USE MARIHUANA ESTABLISHMENTS, TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE TOWNSHIP OF ARLINGTON; TO AUTHORIZE THE ESTABLISHMENT OF LICENSING FEES FOR THE PURPOSE OF DEFRAYING THE COSTS ASSOCIATED WITH THE IMPLEMENTATION AND ENFORCEMENT; AND, TO PROVIDE PENALTIES FOR VIOLATIONS.

THE PEOPLE OF THE TOWNSHIP OF ARLINGTON ORDAIN:

Purpose

The purpose of this Ordinance is to exercise the police, regulatory, and land use powers of the Township by licensing and regulating *medical marihuana facilities* and *adult-use marihuana establishments* as defined by State law and to the extent permissible under State law to protect the public health, safety, and welfare of the residents of the Township.

The Township finds that the licensing of medical marihuana facilities and adult-use marihuana establishments is helpful to the public health and welfare of its citizens and it is therefore necessary to regulate and enforce safety and health practices related to such facilities.

ARTICLE I - DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings given them in this section, except where the context clearly indicates a different meaning. In addition, any term defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL §333.26421 et seq., as amended ("MMMA"), the Medical Marihuana Facilities Licensing Act 2016 PA 281, MCL §333.27101, et seq. ("MMFLA"), and/or the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951 et seq. ("MRTMA"), shall have the definition given in the MMMA, as amended, the MMFLA, as amended or the MRTMA as amended. If the definition of a word or phrase set forth in this Ordinance conflicts with the definition in the MMMA, the MMFLA, or the MRTMA or if a term is not defined but is defined in

the MMMA, the MMFLA or the MRTMA, then the definition in the MMMA, the MMFLA and/or the MRTMA shall apply. Also, any term defined by 21 USC 860(E) referenced in this Ordinance shall have the definition given by 21 USC 860(E).

Adult Use Marihuana Establishment means a marihuana grower, marihuana safety compliance facility, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the Agency pursuant to MRTMA. This term does not include an industrial hemp grower or processor-handler.

Advisory Bulletin means an Advisory Bulletin for the Michigan Marihuana Regulatory Agency posted by the Michigan Department of Licensing and Regulatory Affairs.

Agency means the Michigan Marihuana Regulatory Agency, a division of the Michigan Department of Licensing and Regulatory Affairs.

Applicant means a person who applies for a state medical marihuana facility operating license, or an Adult Use Marihuana Establishment License. *Applicant* includes a managerial employee of the Applicant, a person holding an indirect ownership interest of 10% or more in the Applicant, and the following for each type of Applicant:

- (i) For an individual or sole proprietorship: the proprietor and spouse;
- (ii) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of less than 10% and who does not exercise control over or participate in the management of the partnership, and their spouses. For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of less than 10% and who does not exercise control over or participate in the management of the company, and their spouses;
- (iii) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of less than 10%, and their spouses;
- (iv) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of less than 10%, and their spouses;
- (v) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive 10% or more of the gross or net profit from the enterprise during any full or

partial calendar or fiscal year; and,

- (vi) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

Board, or Township Board means the Township Board of Trustees of Arlington, Michigan.

Bureau means the Bureau of Medical Marihuana Regulation, a division of the Department of Licensing and Regulatory Affairs.

Co-located Business means a marihuana business with 2 or more types of state operating licenses operating within a single location.

Cultivate means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

Elector means an individual 18 years of age, who is a U.S. citizen and has lived at least 30 days in Arlington Township.

Grower means a licensee that is a commercial entity located in this state that cultivates, dries, trims, and/or cures and packages marihuana for sale to a provisioning center, or another grower.

Industrial Hemp means the plant *Cannabis sativa* L. and any part of that plant, including the viable seeds of that plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products derived from the plant *Cannabis saliva* L. with a delta-9-tetrahydrocannabinol concentration of not more than 0% on a dry weight basis.

Industrial Hemp Research and Development Act means the act of the same name, Public Act 547 of 2014 as amended.

LARA means the State of Michigan Licensing and Regulatory Affairs division which is charged with administration and enforcement of the Michigan Medical Marihuana Act, the Michigan Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act.

License Application refers to the requirements and procedures set forth in this Article.

Licensee means a person holding a State of Michigan operating license and a Township of Arlington license to operate a medical marihuana facility, and/or an adult-use marihuana

establishment.

Marihuana or *Marijuana* means all parts of the plant of the genus *cannabis*, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:

- (i) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
- (ii) industrial hemp; or,
- (iii) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Both spellings - *marihuana* and *marijuana* - are acceptable. Although the spelling with a “j” is more common today, many Michigan statutes dating back to 1937 have used the “h” spelling. The legislature simply has not updated the spelling (which would require the adoption of a new public act).

Marihuana Business is a business involving one or more licenses issued under the MMMFLA, the MRTMA, or both.

Marihuana Concentrate means the resin extracted from any part of the plant of the genus *cannabis*.

Marihuana Establishments means a marihuana grower, marihuana safety compliance facility, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the Agency pursuant to MRTMA. This term

does not include an industrial hemp grower or processor-handler.

Marihuana Facility means a grower, retail center, safety compliance facility or secured transporter as defined herein and as defined in the Michigan Medical Marihuana Facilities Licensing Act and its rules and regulations, as amended that has a current license to operate from both the State of Michigan and the Township of Arlington. This term does not include an industrial hemp growing or processing facility.

Marihuana Grower or Grower means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana-Infused Product means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

Marihuana Microbusiness means a combined operation including the cultivation of up to 150 plants, processing and packaging of on-site grown marihuana, retail sale or transfer of said marihuana to individuals over 21 years of age, and transfer of marihuana to a safety compliance facility for testing, but not to other adult-use marihuana establishments.

Marihuana Plant means any plant of the species *Cannabis sativa* L.

Marihuana Retailer means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Marihuana Secure Transporter means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Marihuana Safety Compliance Facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

Medical Marihuana Facility means a grower, provisioning center, safety compliance facility or secured transporter as defined herein and as defined in the Michigan Medical Marihuana Facilities Licensing Act and its rules and regulations, as amended that has a current license to operate from both the State of Michigan and the Township of Arlington. This term does not include an industrial hemp growing or processing facility.

Medical Marihuana Home Use means either:

- (i) A dwelling where a qualifying patient grows or uses medical marihuana for his or her personal consumption in the privacy of the patient's primary residence; or,
- (ii) A dwelling or accessory structure to a dwelling where a registered primary caregiver grows medical marihuana in or at his primary residence for registered qualifying patients with whom the primary caregiver is registered to through the Michigan Licensing and Regulatory Affairs Division (LARA) or its successor.

Michigan Medical Marihuana Act or MMMA means the Michigan Medical Marihuana Act, MCL §333.26421 to §333.26430.

Michigan Medical Marihuana Facilities Licensing Act or MMFLA means the Michigan Medical Marihuana Act, MCL §333.27101 to §333.27801.

Michigan Regulation and Taxation of Marihuana Act or MRTMA means the Michigan Regulation and Taxation of Marihuana Act, MCL §333.27951 to §333.27967.

Municipal License means a license issued by the Township pursuant to this Ordinance that allows a person to operate a medical marihuana facility or marihuana establishment in the Township.

Ordinance means this Ordinance.

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

Prequalification Step means the portion of the application for a state operating license under the MMMFLA or MRTMA pertaining to the Applicant's financial background and the criminal history of the Applicant and other associated persons.

Primary Caregiver means an individual as defined by the MMMA and as authorized by and registered through LARA to grow and distribute medical marihuana for up to five (5) qualifying patients.

Primary Residence means the one place where a person has his or her true, fixed and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

Process or Processing means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

Rules means any rules promulgated by the Department of Licensing and Regulatory Affairs regarding marihuana.

Qualifying Patient means an individual, as defined by the MMMA, that has been diagnosed by a physician as having a medical condition alleviated by the use of medical marihuana, and who is registered through LARA to grow and/or consume medical marihuana.

Stacking refers to a licensee applying for multiple (“stacked”) grow licenses in a single location, subject to conditions specified by State law.

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

State means the State of Michigan.

State License means a license issued by the department that allows a person to operate a marihuana establishment.

Township means the Township of Arlington, Michigan.

Unreasonably Impracticable means that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

ARTICLE II – MARIHUANA USES

Section 2.1 No license required for medical marihuana home use.

Subject to Section 2.2, no license from the Township is required by either a qualifying patient or a primary caregiver to operate a medical marihuana home use.

Section 2.2. Requirements for medical marihuana home uses.

For purposes of a medical marihuana home use, the following shall apply:

- (A) A registered qualifying patient may grow up to twelve (12) marihuana plants for his or her personal use in his or her primary residence.
- (B) A primary caregiver may grow up to twelve (12) marihuana plants in his or her primary residence, or any location permitted by state law, for each of up to five (5) registered qualifying patients with whom the primary caregiver is connected to through the Michigan Licensing and Regulatory Affairs Division (LARA) or its successor agency.
- (C) A primary caregiver also may grow twelve (12) marihuana plants for himself or herself if the primary caregiver is also a registered qualifying patient.
- (D) A primary caregiver may only transfer medical marihuana to a maximum of five (5)

qualifying patients with whom the primary caregiver is registered through LARA.

- (E) Not more than twenty (20%) percent of the total floor area, including a basement, of a dwelling unit can be used for the growing of medical marihuana plants.
- (F) The principal use of the dwelling used for the medical marihuana home use must be residential occupancy and must be in actual use as such.
- (G) There shall be no on-site person-to-person transfers of medical marihuana on the premises of a primary caregiver, however a primary caregiver may deliver medical marihuana to the primary residence of his or her registered qualifying patients without the use of a secured transporter.
- (H) There can be no alteration to or activity at the exterior of the dwelling or yard that alters the residential character of the premises.
- (I) The medical marihuana home use must not generate a volume or change the character of pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.
- (J) Only off-street parking facilities that are normal for residential use and located on the premises may be used.
- (K) No offensive noise, vibration, smoke, dust, heat or glare noticeable at or beyond the property line is permitted.
- (L) All medical marihuana plants must be contained in an enclosed, locked facility as that term is defined by Michigan law.
- (M) If medical marihuana plants are contained in an enclosed, locked facility, the enclosed, locked facility must be in compliance with all building and zoning regulations for accessory structures contained in the Township Zoning Ordinance.
- (N) The outdoor cultivation of medical marihuana must comply with the Rules and applicable State law, as amended.
- (O) A medical marihuana home use must be in compliance with all provisions of State law and this Ordinance.

Section 2.3 License Required for Medical Marihuana Facility

It shall be unlawful to operate a medical marihuana facility, which includes a marihuana grower, marihuana safety compliance facility, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any type of marihuana-related business licensed by the State of Michigan without first obtaining a Township License to operate pursuant to this Ordinance and having a validly issued license in good standing from the State of Michigan, and having paid all applicable fees. Any person violating this Section shall be subject to a fine as set forth in Section 9. on fine per violation per day basis. Each day that a violation continues shall be considered a separate and distinct offense.

Section 2.4 License Required for Adult-Use Marihuana Establishment (Adult Use).

It shall be unlawful to operate a marihuana establishment, which includes a marihuana grower, marihuana safety compliance facility, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any type of marihuana-related business licensed by the State of Michigan without first obtaining a Township License to operate pursuant to this Ordinance and having a validly issued license in good standing from the State of Michigan, and having paid all applicable fees. Any person violating this Section shall be subject to a fine as set forth in Section 9.7 on fine per violation per day basis. Each day that a violation continues shall be considered a separate and distinct offense.

ARTICLE III – LICENSE AVAILABILITY, ALLOCATION AND FEES

Section 3.1 Regulations of Marihuana Facilities and Establishments

- (A) No person shall operate a Marihuana Business as defined by this Ordinance in the Township of Arlington without first obtaining a license to do so from the Township and the State of Michigan. A non-refundable application fee for the application and license(s) shall be submitted concurrent with the application. The non-refundable fee for a license shall be established by Resolution of the Township Board. This application fee is separate and distinct from an annual administrative fee imposed upon licensed facilities.
- (B) A non-refundable application fee for the application and license(s) shall be submitted concurrent with the application. The non-refundable fee for a license shall be established by Resolution of the Township Board. This application fee is separate and distinct from and annual administrative fee imposed upon licensed facilities
- (C) The Township Clerk, after the final authorization from Township Board pursuant to Article IV, shall issue no more than the following numbers and types of Marihuana Business licenses (medical marihuana facilities and adult use marihuana establishments

combined):

- (1) One Hundred (100) Grower Licenses;
- (2) Two (2) Provisioning Center or Retailer Licenses;
- (3) Zero (0) Safety Compliance Facility Licenses;
- (4) Ten (10) Processor Licenses;
- (5) Zero (0) Secure Transporter Licenses; and,
- (6) Zero (0) Marihuana Microbusinesses.

(D) The term of each license shall be one (1) year. The license is deemed awarded on the date the Township Board gives Final Authorization, in writing, to the Applicant pursuant to Article IV.

(E) A maximum of one state operating license for medical marihuana facilities and one state operating licenses for adult use marihuana establishments shall be utilized per parcel. For example, an applicant who has been licensed by the state for operating a medical marihuana facility, an adult use marihuana establishment, or both, on the same parcel of land is permitted to so operate subject to the limitations and conditions imposed by the Township following the application and approval process as set forth in this ordinance.

(F) At least every one (1) year after adoption of this ordinance, the Township Board shall review the maximum number of each type of marijuana facility and establishment allowed and determine whether this maximum number should be changed. The first review of the number of processor licenses shall occur six (6) months after adoption of this ordinance. The reviews and findings thereof shall be recorded in the minutes of the relevant meeting of the Board.

Section 3.2 License Availability

(A) Medical Marihuana Facility Licenses: On June 19, 2019, the Township adopted Ordinance No. 2019-619-1 imposing a moratorium on all new medical marihuana facility (MMF) license applications in the Agricultural zoning district for two years. No MMF license applications can be accepted by the Township pursuant to this Ordinance while the moratorium remains in effect, with the exception that the moratorium does not impact the ability of existing MMF license holders to apply for additional licenses on existing MMF parcels (“stacking”).

(B) Marihuana Establishments: The June 19, 2019 moratorium does not prohibit marihuana establishment license applications. However, pending the expiration of the MMF moratorium, only existing MMF license holders will be allowed to apply for marihuana establishment licenses on parcels whereon MMF licenses are already held.

Section 3.3 Zoning Implications of License Stacking

(A) In the event an application for a marihuana business includes a request for additional licenses beyond the number previously approved by the Board for the subject parcel, and the previously approved licenses formed the basis for Planning Commission review and Board approval of a special use permit and site plan, the application shall be deemed an application for an expansion of the use previously approved by special use permit thereby requiring a public hearing at the Planning Commission pursuant to Article XIII of the Township Zoning Ordinance, if:

- (1) The applicant submits proposed modifications to the previously approved site plan which, in the opinion of the Township Planner, cannot be approved administratively; or,
- (2) The additional licenses result in an increase of over 1500 marihuana plants in the previously approved maximum number of marihuana plants that can be grown on the subject parcel.

(B) *Reserved.*

Section 3.4 Applying for Stacked Marihuana Facility Licenses

Application to add additional medical marihuana licenses beyond the number previously approved by the Board for a parcel may only be made in conjunction with an application for renewal of medical marihuana facility licenses under Article V.

ARTICLE IV - APPLICATION FOR TOWNSHIP AUTHORIZATION

Section 4.1 Initial Application Submission

(A) A person or entity may apply for authorization to operate a marihuana business within the Township by submitting the following items to the Clerk for each proposed state operating license. These items may be submitted to the Clerk concurrently with an application for required special land use permit and site plan and zoning approvals (see Section 4.1(B)):

- (1) A copy of official paperwork issued by LARA indicating that the Applicant has successfully completed the prequalification step of the application for a state operating license.
- (2) A signed application on a form approved by the Township Board from the Applicant indicating:
 - (i) The current property owner of record; if the current property owner is different than the Applicant (e.g. where the Applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the Applicant's;
 - (ii) If the Applicant is an individual, the Applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including Bureau contact information.
 - (iii) If the Applicant is not an individual: the names, physical addresses, email addresses, and one or more phone numbers of each person considered an Applicant under the MMFLA or the MRTMA, each stakeholder in the Applicant, and each managerial level employee (if managerial employees known at the time of application); articles of incorporation, articles of organization, or assumed name registration documents filed with the State of Michigan; Internal Revenue Service SS-4 EIN/TIN confirmation letter; a copy of the operating agreement if the Applicant is a limited liability company; a copy of the partnership agreement, if the Applicant is a partnership; or, a copy of the by-laws or the shareholder agreement if the Applicant is a corporation.
 - (iv) The name, address and EIN/TIN of the *proposed* business;
 - (v) The proposed license type(s);
 - (vi) If the proposal involves stacked growing licenses, the number of licenses sought.
 - (vii) For the Applicant and/or for each stakeholder of the Applicant, an affirmation under oath that they are at least 18 years of age and have never been convicted of or pled guilty to any criminal offense under the laws of any jurisdiction for a controlled substance related crime. A signed release authorizing the Township to perform a criminal background check to ascertain whether the Applicant, each stakeholder of the Applicant, each managerial employee (if known at the time of application) and employee (if known at the time of application) of the Applicant meet the criteria set forth in this Ordinance. For any managerial or other employee

hired after the date of the license application, this release must be provided within ten (10) days of the commencement of employment.

- (B) Payment in an amount and by a method set by resolution of the Township Board, which may be amended from time to time, is due with the submission and no action will be taken related to the application until verified receipt of same.

Section 4.2 Conditional Authorization.

- (A) The Clerk will accept and conditionally authorize any Initial Application that includes the required items listed in Section 4.1 and provide written verification of same to the Applicant on a form approved by the Township Board.
- (B) The Clerk will provide a copy of the Initial Application Submission, including all supporting documents, and the Conditional Authorization to the License Application Committee and the Planning Commission.
- (C) Conditional Authorization allows the Applicant to move forward with the license review and process for final township authorization; it does not allow the Applicant to operate as a marijuana business within the Township.
- (D) The Applicant must all required zoning approvals within 12 months of receiving conditional authorization.

Section 4.3 Expiration of Conditional Authorization.

If the Applicant fails to satisfy any of the deadline established in Section 4.2, the conditional authorization will expire on said deadline.

Section 4.4 Review Process to Obtain Final Township Authorization

The licensing review process for marijuana businesses in the Township shall consist of three phases. Phase One shall be review of application by the License Application Committee established by Article VI herein. Phase Two shall be review of the the site plan and application for special use permit by the Township Planning Commission. Phase Two shall be review of the the site plan permit by the Township Planning Commission. Phases One and Two can occur concurrently. Phase Three will be approval or denial of licenses by the Township Board after receipt of the advisory opinion and recommendation generated in Phases One and Two.

- (A) Phase One – Review by License Application Advisory Committee (the Committee)

- (1) The Committee initiate its review only upon receipt of the Initial Application Submission and Conditional Authorization from the Township Clerk.
- (2) The Committee shall review the applications for marihuana businesses and provide information obtained to the Township Planning Commission and Board.
- (3) The Committee's review shall include, but is not limited to, fact finding pertaining to the Applicant with regard to the following: business history; Township, State and Federal regulatory compliance history; location of the proposed facility and the structure which will contain the facility; all capitulation requirements of the MMFLA must be shown to be met; job opportunities created by the Applicant(s); the community impact of the proposed facility; the social responsibility of the Applicant(s); property tax assessment payment history; litigation history; history in other municipalities, and bankruptcy history.
- (4) After the Committee is satisfied that it has met its fact-finding obligations, the Committee shall forward a written memorandum to the Planning Commission members, with a copy to the Township Clerk, on a form approved by the Township Board.

(B) Phase Two – Site Plan and Special Use Permit Review by Planning Commission

- (1) The Applicant shall submit the following to the Planning Commission Chair for approval of the site and structure that will contain the medical marihuana facility or adult-use marihuana establishment:
 - (a) A complete application special use and site plan review on a form approved by the Township Board;
 - (b) A complete site plan signed and sealed by a licensed engineer or architect;
 - (c) A boundary and ALTA survey at a standardized engineering scale;
 - (d) A complete set of building drawings signed and sealed by a licensed engineer or architect; and,
 - (e) The appropriate non-refundable application and licensee fee per Resolution of the Township Board.
- (2) If the Planning Commission Chair determines the application is not complete, the Chair shall notify the Applicant in writing on a form approved by the Township Board and the Applicant shall have thirty (30) days to resubmit the application with required information. Failure to resubmit with the required information will result in the application being deemed

abandoned and the Conditional Authorization deemed expired.

- (3) If the Planning Commission Chair determines that the application is complete, the Chair will forward copies of the applications and supporting documents, including site plans, to the Township Planner.
- (4) Within fourteen (14) days of the Township Planner's receipt of the application and supporting documents from the Planning Commission Chair, the Township Planner shall review and coordinate with the Applicant on any requested changes to verify compliance with Township ordinances. Once the Planner has verified compliance with Township ordinances, the Planner shall notify the Planning Commission Chair in a memorandum detailing the Planner's findings.
- (5) Upon receipt of the memorandum from the Township Planner, the Planning Commission Chair can add the application for special use permit and site plan approval to the agenda of the next regular meeting of the Township Planning Commission and schedule and notice a public hearing, if required. The Planning Commission Chair may schedule the matter for a special meeting if, in the Chair's discretion, a special meeting would be appropriate.
- (6) Following review of the applications for special use permit and site plan approval and a public hearing (if required), the Planning Commission shall make a recommendation to the Township Board to approve the applications, deny the applications, or approve the applications with specific conditions. The recommendation shall be provided by the Planning Commission Chair to the Applicant and the Township Board on a form approved by the Township Board.
- (7) The Applicant, upon receipt of the recommendation of the Planning Commission, may then submit its Application for Final Authorization to the Township Board on a form approved by the Township Board. The Application for Final Approval must be provided on a form approved by the Township Board and must include the following:
 - (i) A complete copy of the application package submitted to the State of Michigan for the State facility license;
 - (ii) Written consent for the fire department and law enforcement officials serving the Township to inspect the marijuana business at any time during normal business hours to ensure compliance with applicable

laws and regulations.

(C) Phase Three – Township Board Review

- (1) Upon receipt of the recommendation from the Planning Commission as set forth in Section 4.4(B)(6), the Applicant can submit its Application for Final Township Authorization to the Township Clerk.
- (2) Upon receipt of the recommendation from the Planning Commission as set forth in Section 4.4(B)(6), as well as the Application for Final Township Authorization from the Applicant, all applications (special use permit, site plan approval and Final Township Authorization) can then be placed on the agenda of the Township Board for its next regular meeting.
- (3) All Final Township Authorization approvals must include the following condition in addition to any other conditions to approval imposed by the Board:
 - (i) Applicant must obtain the requisite state operating license(s) within 12 months of receiving Final Township Authorization; failure to do so renders said authorization void.

ARTICLE V - LICENSE RENEWAL

Section 5.1 Deadlines

Application for license renewals must be submitted to the Township Clerk no later than ninety (90) days prior to the annual anniversary date of the date the Township provided written notification to the licensee of Final Township Authorization.

Section 5.2 Applications for Renewal.

- (A) All applications for license renewal shall be submitted on form(s) approved by the Board no later than the deadline established in Section 5.1.
- (B) All applications for renewal and subsequent applications shall include the requisite fee as set by the Township Board by Resolution and can be on a per license or per business basis.

Section 5.3 Administrative Renewal

- (A) Upon the expiration of an existing license, a license will be automatically renewed by the

Township for one (1) year if:

- (1) There are no uncured administrative violations in the prior year;
- (2) The Applicant has paid the annual licensing fee for the renewal period;
- (3) Any changes of any person or entity considered an Applicant under the MMFLA or the MRTMA have been fully disclosed to the Township;
- (4) Neither the Applicant nor any person or entity considered an Applicant under the MMFLA or the MRTMA are in violation of any provision of this Ordinance; and,
- (5) The Applicant has no unpaid delinquent taxes, special assessments, fees or charges of any type owed to the Township.

Section 5.4 Three Phase Renewal Review

If a license is not automatically renewed under Section 5.3, then the application must be submitted to the License Review Committee, the Planning Commission and, ultimately, the Township Board, for review as set forth in Article IV.

ARTICLE VI - LICENSE APPLICATION ADVISORY COMMITTEE

Section 6.1 Marihuana Licensing Advisory Committee

A Marihuana Licensing Advisory Committee shall be created and consist of the Township Planner, the Township Attorney, the Chair of the Township Construction Board of Appeals, and one (1) Township elector selected by the Township Board.

Section 6.2 Advisory Only

The Marihuana Licensing Advisory Committee shall be purely advisory in nature, with only the ability to provide information to the Township Planning Commission and Township Board pertaining to their respective exercise of governmental authority.

ARTICLE VII - GENERAL REQUIREMENTS FOR ALL MARIHUANA BUSINESSES

Section 7.1 Compliance with All Statutes, Rules and Regulations

All activities related to marihuana, including those related to a Provisioning Center, a Retailer, a Grower Facility, a Microbusiness, a Secure Transporter, or a Safety Compliance Facility shall be

in compliance with the MMMA, the MMFLA, the MRTMA, the Rules and advisory opinions of the Medical Marihuana Licensing Board, the Michigan Department of Licensing and Regulatory Affairs or any successor agency, and this Ordinance of Ordinances, resolutions, rules and regulations of the Township of Arlington.

Section 7.2 Operating Before Licensing

Any prospective licensee who engaged in the cultivation or processing of marihuana into a usable form, or the distribution of marihuana, or the testing of marihuana either prior to or after enactment of this Ordinance but without obtaining the required licensing set forth in this Ordinance shall be deemed to not be a legally established use and therefore not entitled to legal nonconforming status under the provisions of this or any other Ordinance and/or State law.

Section 7.3 Revocation and Suspension.

- (A) A license issued under this Article may be suspended or revoked after an administrative hearing to determine if any grounds for suspension or revocation exist. The hearing shall be conducted by the Planning Commission and will be a public hearing. The Planning Commission shall then recommend whether the license should be suspended or revoked to the Township Board. Notice of the time and place of the Hearing and the grounds for suspension or revocation must be given to the licensee at least fourteen (14) days prior to the date of the hearing, by first class mail to the address given on the license application.
- (B) A license applied for or issued under this Ordinance may be suspended or revoked for any of the following reasons:
 - (1) A violation of this Ordinance;
 - (2) Commission of fraud or misrepresentation or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any activity for which this Ordinance requires a license;
 - (3) The Medical Marihuana Facility or Adult-Use Marihuana Establishment is determined by the Township of Arlington to have become a public nuisance; and/or
 - (4) The State of Michigan has denied, revoked, declined to renew, ordered to cease operations, or suspended the Applicant's state license. In this case, there shall be no hearing on the revocation as a licensee cannot operate without both a Township and a State operating license.

Section 7.4 Temporary Suspension of a License.

The following apply to the suspension of a facility license:

- (A) The Township Supervisor, after consultation with the Township Attorney, may temporarily suspend a license without a hearing if the Township Supervisor finds that public safety or welfare requires emergency action. The Township Supervisor shall cause the temporary suspension by issuing a Suspension Notice in connection with institution of proceedings for a Hearing per Section 7.3;
- (B) If the Township Supervisor temporarily suspends a license without a hearing, the holder of the license is entitled to an administrative hearing before the Planning Commission within thirty (30) days after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice. The Planning Commission shall then recommend to the Township Board whether the license should be suspended. Notice of the time and place of the hearing and the grounds for suspension must be given to the licensee at least fourteen (14) days prior to the date of the hearing, by first class mail to the address given on the license application.

Section 7.5 Penalties and Discipline.

- (A) The Township may require an Applicant or holder of license of a Medical Marijuana Facility or Adult-Use Marijuana Establishment to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Ordinance. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.
- (B) A person who violates any provision of this Ordinance related to a medical business is subject to a municipal civil infraction and fines pursuant to Section 9.7.

Section 7.6 Prospective Employees

Before hiring a prospective employee of the Applicant, the holder of a license shall conduct a background check of the prospective employee. If the background check indicates a conviction within the past ten (10) years for a controlled substance-related felony, the Applicant shall not hire the prospective employee.

Section 7.7 Advertisement and Packaging

No advertisements or packaging shall be targeted to appeal to minors. No packaging shall substantially resemble any form of candy, snack food, drink or other edible item not containing

marihuana currently for sale to the general public. All edible marihuana product must be in child resistant or containers. All packaging of edible marihuana product shall conform to the MMFLA, the MRTMA, the Rules and all Advisory Bulletins.

Section 7.8 General Requirements

- (A) No doctor shall be permitted to offer certifications or examinations at the facility.
- (B) No alcohol, cigarettes, or over the counter pharmaceuticals may be sold on the premises.
- (C) All facilities must have an approved certificate of occupancy and zoning certificate at the time of application for renewal or the application for renewal will not be considered.
- (D) All Notification and Reporting requirements required by the Rules, as amended, must be followed concerning reporting of theft or diversion of marihuana product.
- (E) The State of Michigan and Township Licenses must be prominently displayed at all times.
- (F) No noise, dust, or other nuisance conditions in violation of this Ordinance are permitted on the premises.
- (G) No person is permitted to reside in a medical marihuana facility or adult-use marihuana establishment.
- (H) The premises shall be open, at all times, to Fire Department and Law Enforcement officials, without a warrant and without notice to the licensee, to enter the premises, offices, facilities, or other places of business of a licensee, if there is probable cause of noncompliance with the MMMA, MMFLA, the MRTMA, this Ordinance or applicable state laws will be found and consistent with constitutional limitations, for the following purposes:
 - (1) To inspect and examine all premises;
 - (2) To inspect, examine, and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
 - (3) To inspect the person, and inspect or examine personal effects present in a Medical Marihuana Facility or Adult-Use Marihuana Establishment, of any holder of state

operating license while that person is present in a Medical Marihuana Facility or Adult-Use Marihuana Establishment; and,

- (4) To investigate alleged violations of the MMMA, MMFLA, MRTMA or applicable state laws.
- (I) All marihuana shall be contained within an enclosed, locked facility in accordance with the MMMA, MMFLA, or MRTMA as amended.
- (J) There shall be no other accessory uses permitted within the facility.
- (K) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Marihuana is exposed;
- (L) Facilities shall be free from infestation by insects, rodents, birds, or vermin of any kind. There shall be adequate screening or other protection against the entry of pests.
- (M) Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.
- (N) Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in non-conformance with state laws;
- (O) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;
- (P) Signage shall comply with the Township Zoning Ordinance and with all state laws and rules and advisory bulletins of LARA.
- (Q) In addition to all security measures required by the State of Michigan, all Medical Marihuana Facilities or Adult-Use Marihuana Establishments shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras capable of recording with reasonable clarity at night. The video recordings shall be maintained in a secure, off-site location for a period of thirty (30) days.
- (R) The dispensing of medical marihuana for consumption at the premises shall be prohibited.
- (S) Facilities shall not be operated in a manner creating unreasonable levels of noise, dust, vibration, glare, or fumes detectable to normal senses beyond the boundaries of the

property on which the facility is operated while giving consideration to the zoning district in which the Marijuana Business is operating.

(T) The public or common areas must be separated from restricted or non-public areas.

(U) It shall be prohibited to use the symbol or image of a Marijuana leaf in any exterior building signage.

Section 7.9 Nondiscrimination.

No Medical Marijuana Facility or Adult-Use Marijuana Facility or its stakeholders or employees may discriminate against any person because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. A violation of this section shall be punishable pursuant to Ordinance 15 of this Ordinance, as well as pursuant to the penalties contained in this ordinance.

ARTICLE VIII – MINIMUM OPERATIONAL STANDARDS

Section 8.1 Minimum Operational Standards of Provisioning Centers or Retailers.

(A) In addition to those requirements set forth in Article VII, the following minimum standards for Provisioning Center and Retailer shall apply:

- (1) No Provisioning Center or Retailer shall be open between the hours of 8:00 p.m. and 9:00 a.m.;
- (2) Any usable Marijuana remaining on the premises of a Provisioning Center or Retailer while the Provisioning Center or Retailer is not in operation shall be secured as required by state law, rules and advisory opinions;
- (3) A Provisioning Center or Retailer must be at a fixed location. Drive-through window(s) on the premises of a Provisioning Center shall not be permitted;
- (4) All Marijuana delivered to a patient shall be packaged and labeled as provided by state laws.
- (5) All registered patients must present both their Michigan Medical Marijuana patient/caregiver identification card and government issued photo identification prior to entering restricted/limited areas or non-public areas of the Provisioning Center, and if no restricted/limited area is required, then promptly upon entering the Provisioning Center.

- (6) No advertising material may be used that is misleading, deceptive, or false, or that is designed to appeal to minors.
- (7) No Provisioning Center or Retailer shall place or maintain, or cause to be placed or maintained, an advertisement of Marihuana in any form or through any medium within one thousand feet of the real property comprising a public or private elementary, vocational or secondary school.
- (8) Certified laboratory testing results that meet the MMMA, MMFLA, MRTMA or applicable state laws must be available to all Provisioning Center patients/customers upon request.

Section 8.2 Minimum Operational Standards of Grower Facility or Establishment.

In addition to those requirements set forth in Article VII, the following minimum standards for Grower Facilities and Establishments shall apply:

- (A) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support growing or harvesting of Marihuana are located;
- (B) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by local Fire Department officials to ensure compliance with applicable fire codes;
- (C) The dispensing of marihuana or marihuana product at the Grower Facility or Establishment shall be prohibited;
- (D) An air filtration system of sufficient size for the premises must be installed and operating at all times which recycles the air in the premises at least every 3 minutes so as to eliminate any specific odor emanating from the premises.

Section 8.3 Minimum Operational Standards of Processor Facility or Establishment.

In addition to those requirements set forth in Article VII, the following minimum standards for Processor Facilities or Establishments shall apply:

- (A) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support processing of Marihuana are located;

- (B) That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by local Fire Department officials to ensure compliance with applicable fire codes;
- (C) The dispensing of marihuana or marihuana product at the Processor Facility and Establishment shall be prohibited;
- (D) An air filtration system of sufficient size for the premises must be installed and operating at all times as required by state law.

ARTICLE IX - GENERAL PROVISIONS

Section 9.1 Confidentiality

To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq. Furthermore, no personal information such as date of birth, social security number, home address, and home phone number of the Applicant, stakeholders, or employees shall be submitted in any public record.

Section 9.2 Submission of Supplementary Information

Applicants who have received conditional authorization and persons or businesses operating in the Township must provide the Clerk with copies of all documents submitted to LARA in connection with the license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within 7 days of submission to LARA, and may be submitted by electronic media unless otherwise requested by the Clerk.

Section 9.3 License Transfers

- (A) Licensees may not transfer a license issued under this Ordinance to a different location without Final Township Authorization by the Township Board after submission by the licensee of an Initial Application Submission and completion of the three Phase review process set forth in Article IV.
- (B) Licensees may not transfer a license issued under this Ordinance to a different individual or entity without written approval by the Township Board. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the Township, indicating the current licensee and the proposed licensee and must follow

the full application process set forth in Article IV. The Applicant must also pay a licensee transfer fee as set forth by Resolution of the Township Board.

Section 9.4 Compliance with Applicable Laws and Regulations.

Marihuana businesses must be operated in compliance with, as applicable, the MMMFLA, the MRTMA, administrative rules promulgated under those statutes, all conditions of the state operating licenses, and all applicable ordinances and codes. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.

Section 9.5 Annual Administrative Fee

A licensee must pay an annual administrative fee in an amount set by resolution of the Township Board, not to exceed Five Thousand Dollars (\$5,000.00). This fee is separate and above the application fees described in Section 3.1, including renewal application fees. The annual administrative fee must be paid by Applicant on the date on which the licensee submits an application to the Township for renewal.

Section 9.6 Request for Revocation of State Operating License.

If at any time an authorized marihuana business violates this or any other applicable ordinance, the Township Board may request that LARA revoke or refrain from renewing the business's state operating license.

Section 9.7 Civil Infraction.

- (A) It is unlawful to disobey, neglect, or refuse to comply with any provision of this Ordinance. A violation of this Ordinance is a municipal civil infraction and a nuisance per se.
- (B) Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to the following fines:
 - (1) First violation = \$500 (per violation/per day)
 - (2) Second offense= \$2,500 (per violation/per day)
 - (3) Each subsequent offense= \$5,000 (per violation/per day)
- (C) The foregoing sanctions are in addition to the Township's right to seek other appropriate and proper remedies, including injunctive relief, in actions in law or equity in a court of

competent jurisdiction.

Section 9.8 Publication and Effective Date.

The Township Clerk shall cause to be published a notice of adoption and synopsis of this ordinance within 30 days of the date of its adoption. This ordinance shall take effect 30 days following its publication.

Section 9.9 Repeal of Contradictory Ordinance Provisions

Any ordinance provision previously adopted by the Township is hereby repealed. All previously approved ordinance provisions not in conflict with the present ordinance shall remain in effect.

Adopted by the Arlington Township Board on May 20, 2020.

YES: Phillippe, Pugsley and Pitts

NO: DeLeo and Peterson.

William R. Pugsley, Clerk
ARLINGTON TOWNSHIP
52022 34th Avenue
Bangor, MI 49013