

**ARLINGTON TOWNSHIP  
VAN BUREN COUNTY, MICHIGAN  
2021 MARIJUANA BUSINESS ORDINANCE  
ADOPTED \_\_\_\_\_, 2021**

**AN ORDINANCE ESTABLISHING RULES, PROCEDURES, LICENSING, AND  
REGULATIONS FOR COMMERCIAL MARIJUANA BUSINESSES IN ARLINGTON  
TOWNSHIP, SUPERSEDING ORDINANCE 2020-01 - THE MARIHUANA BUSINESS  
ORDINANCE, RESOLUTION 2019-619-01M, AMENDMENT TO ORDINANCE 2021-  
01, THE SECOND AMENDMENT TO ORDINANCE 2021-01, AND THIRD  
AMENDMENT TO ORDINANCE 2021-01**

**THE TOWNSHIP OF ARLINGTON ORDAINS:**

**ARTICLE I  
GENERAL PROVISIONS**

**A. Title.**

This ordinance is to be known and may be cited as the "Arlington Township Marijuana Business Ordinance."

**B. Purpose and intent.**

The purpose of this ordinance is to implement the provisions of Public Act 281 of 2016, the Michigan Medical Marijuana Facilities Licensing Act (MMFLA) and 2018 Initiated Law No. 1, the Michigan Regulation and Taxation of Marijuana Act (MRTMA); to protect the public health, safety, and welfare of residents of the Township by setting forth the manner in which marijuana commercial businesses will be licensed and regulated in the Township; to authorize the establishment of marijuana businesses within the Township and provide standards and procedures for the review, issuance, renewal, and revocation of Township-issued licenses for such businesses exercising Township control to the maximum extent allowed by law; to impose fees to defray and recover the cost to the Township of the administrative and enforcement costs associated with marijuana businesses, and to coordinate with State laws and regulations addressing marijuana businesses.

This ordinance is to be construed to protect the public health, safety, and welfare over commercial marijuana business interests. The operation of a licensed marijuana business is a revocable privilege and not a right in the Township. Nothing in this ordinance is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed a Township-issued license to engage in the distribution, cultivation, production, possession, transportation or sale of marijuana as a commercial enterprise in the Township.

Any individual or business entity which engages in or attempts to engage in the use, distribution, cultivation, production, possession, transportation or sale of marijuana as a commercial enterprise in the Township without obtaining the required authorization required by this ordinance is deemed to be an illegally established nuisance, and as such is not entitled to legal nonconforming status under this ordinance, the Township Zoning Ordinance, or state statutory or common law.

### **C. Indemnification of Township.**

By accepting a license issued pursuant to this ordinance, the holder waives and releases the Township, its agents, elected officials, and employees from any liability for injuries, damages, or liabilities of any kind that result from the issuance of a license and the non-renewal of a license.

By accepting a license issued pursuant to this ordinance, the holder agrees to indemnify, defend and hold harmless the Township, its agents, elected officials, employees, and insurers, against all liability, claims or demands arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating marijuana business, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marijuana business.

The Township reserves the right to amend or repeal this ordinance in any manner it chooses, including, but not limited to the complete prohibition of any type of marijuana business or limiting the number and types of marijuana businesses authorized to operate in the Township.

Nothing in this ordinance is to be construed to grant or grandfather any marijuana business a vested right, license, or privilege for continued operations within the Township.

### **D. Definitions.**

Unless defined differently in this Ordinance, any term used in this Ordinance that is defined by the Michigan Medical Marijuana Act, the Medical Marijuana Facilities Licensing Act, Michigan Regulation and Taxation of Marijuana Act, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing marijuana shall have the definition given in those Acts and Rules.

### **E. License Limitations**

The Township Clerk, after the final authorization from the Township Board, shall issue no more than the following numbers and types of Marijuana Business licenses (medical marijuana facilities and adult use marijuana establishments combined):

1. Fifty (50) Total Grower Licenses of all types, including excess grow

licenses, which shall be counted against the total number of licenses to be issued by the Township;

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) Marijuana Microbusinesses.

#### **F. License Reserve**

In addition to the grower licenses identified elsewhere in this Ordinance, the Township reserves five (5) grower licenses which may be issued solely at the discretion of the Township based on the Township's determination that an existing licensee requires an additional license in order to further its business interests where the licensee could not have obtained the license earlier because of limitations on the licensee's available capitalization or because the use of an additional license is uniquely suited to a particular parcel of property.

#### **G. License and annual fee required; exception.**

No person shall establish or operate a marijuana commercial business in the Township without first having obtained a license from the Township and a state operating license for each such marijuana business to be operated. Licenses shall be kept current.

There shall be an annual nonrefundable fee to defray the administrative and enforcement costs associated with marijuana businesses located in the Township of \$5,000 per license. The Township Board is authorized to modify this fee by resolution.

The annual nonrefundable fee required under this section is due and payable with the application for a license and upon the application for renewal of any such license under this ordinance. The license and fee requirements of this ordinance apply to all marijuana commercial businesses.

The license fee requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and licensing requirements imposed by any state regulatory agency, or by Township ordinance, including, by way of example, any applicable fees for site plan review, zoning review, inspections, or building licenses.

#### **H. Location criteria.**

No marijuana business is eligible to receive a license unless at the time the application for the marijuana business operating license is submitted, the location of the proposed business operation complies with the requirements set forth in the Township of Arlington Zoning Ordinance as required for the specific type of marijuana commercial business for which the license is being sought.

**I. Mobile marijuana businesses and drive-through operations are prohibited.**

A licensee shall not operate a marijuana business at any place in the Township other than the address provided in the application on file with the Township. A license issued under this ordinance may be transferred to a different location upon receiving written approval from the Township. In order to request approval to transfer the location of a license, the licensee must make a written request to the Township, indicating the current license location and the proposed license location. Requests for transfer may be granted only by the Township Board.

**J. General license application requirements.**

A person seeking a license pursuant to the Medical Marijuana Facilities Licensing Act, or the Michigan Regulation and Taxation of Marijuana Act, and the provisions of this ordinance must submit an application in writing to the Township on forms provided by the Township. At the time of application, the application must be accompanied by a nonrefundable application fee described above.

The applicant must also provide the following information, under the penalty of perjury, on the Township-provided form for the applicant, the proposed manager of the marijuana facility, and all persons who are parties in interest in the marijuana business that is the subject of the application:

If the applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number;

If the applicant is not an individual or sole proprietorship, information regarding the business entity, including, without limitation, the name and address of the entity, website address, (if any), type of business organization, proof of registration with, or a license of good standing from the State of Michigan, as applicable, and the names, dates of birth, addresses, email addresses, phone numbers of each applicant, and the federal tax identification number of the business entity;

The identity of every person having a 10% or more ownership interest in the applicant with respect to which the license is sought, provided however a social equity-qualified business must be able to demonstrate 51% ownership by qualifying applicants;

If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marijuana business;

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;

A description of the type of the proposed marijuana commercial operation and its physical address;

A to-scale diagram of the proposed licensed premises, 11 inches by 17 inches in hard copy and also electronically, showing, without limitation, building floor plan and layout, all entryways, doorways, or passageways, and means of public entry and exits to the proposed licensed premises, loading zones, available on-site parking spaces, fencing at the premises, and all areas in which marijuana will be stored, grown, manufactured or dispensed;

A lighting plan showing the lighting outside of the marijuana business for security purposes and compliance with applicable Township outdoor lighting requirements;

A staffing plan which describes the anticipated or actual number of employees;

A statement that no applicant is in default to the Township for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the Township;

A statement that no applicant is ineligible from holding a State license to operate a marijuana commercial business;

Attestation that the applicant consents to inspections, examinations, searches and seizures required or undertaken pursuant to enforcement of this ordinance; and

Any additional information that the Township determines to be necessary in connection with the investigation and review of the application.

If the Township identifies or is informed of a deficiency in an application, the applicant shall have five business days to correct the deficiency after notification by the Township.

Applicants shall have the sole responsibility to comply at all times with the requirements of this Ordinance. No action by the Township shall relieve an applicant of the responsibility of compliance.

#### **K. Denial of application.**

The Township may reject any application that does not meet the requirements of the MMFLA, the MRTMA, the Rules, or this ordinance. The Township may reject any application that contains any false, misleading or incomplete information.

An applicant whose application is rejected or denied because of missing, incomplete, erroneous, false, or misleading information, or because of a lack of submission of the full amount of the fees due, does not have a right to appeal the decision of the Township. The decision of the Township is final.

#### **L. Issuance of provisional approval license.**

A marijuana business whose inspection, background checks, and all other information available to the Township verifies that the applicant has submitted a full and complete application, has made or has secured licenses for making improvements to the business location consistent with the type of facility applied for, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, will be reviewed by the office of the Township for completeness and compliance with the requirements of this ordinance.

The Township shall issue a provisional marijuana business approval license to each applicant whose application is complete and if the inspection, background checks, and all other information available to the Township verify that the applicant complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, and in compliance with the Township Code of Ordinances and any other applicable law, rule, or regulation.

A provisional marijuana business approval license only means that the applicant has submitted a valid application for a marijuana business operating license and is eligible to receive the appropriate marijuana business license from the Department. The applicant shall not locate or operate a marijuana business in the Township without obtaining a State operating license approved by and issued by the Department. A provisional license issued by the Township will expire and be void after one year if State approval is not diligently pursued to completion by the applicant, or on the date that State approval is denied by a final order to the applicant, whichever first occurs.

Within 30 days from the issuance of a provisional marijuana business approval license by the Township, the applicant must submit proof to the Township that the applicant has submitted a partial application with the Department for prequalification for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then the provisional approval will be canceled by the Township.

If the Department issues a final determination either denying an applicant prequalification for a state operating license or denying a full application for a state operating license, then the provisional approval license will be canceled by the Township.

Provisional licenses are not transferable to another person or entity without the submission of an application by the person or entity to whom the license is to be transferred and the approval of the Township.

**M. Issuance of Township marijuana business operating license.**

An applicant holding an unexpired provisional license issued pursuant to this ordinance and for which a marijuana facility or marijuana establishment state operating license has been issued shall provide proof of same to the Township. If a Township license is available, the applicant may then continue with an application for a Special Use Permit that will use the license.

Maintaining a valid state operating license is a condition for the issuance and maintenance of the Township marijuana business operating license issued under this ordinance and the continued operation of any marijuana business.

**N. Proof of insurance.**

A licensee shall maintain for the duration of the license worker's compensation insurance as required by state law and general liability insurance with minimum limits of \$1,000,000 per occurrence and an aggregate limit of \$2,000,000 issued from a company licensed to do business in Michigan having an AM Best rating of at least B++. A licensee shall provide proof of insurance to the Township in the form of a license of insurance evidencing the existence of a valid and effective policy disclosing policy limits, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the Township of Arlington and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the Township of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The licensee shall obtain and submit proof of substitute insurance to the Township within five business days in the event of expiration or cancellation of coverage.

Any failure to maintain or lapse in the insurance coverage required by this ordinance is grounds for revocation of the Township-issued operating license.

A condition of the issuance of a marijuana business operating license includes, at a minimum, operation of the business in compliance with all the plans and the information provided to the Township as part of the application. A licensee must update any change in the information provided to the Township as part of the application within five business days of such change during the term of the license. The failure to timely update a change in information will be grounds for suspension or revocation of the operating license.

**O. License forfeiture.**

In the event that a marijuana business does not commence and maintain operations within one year of issuance of a Township operating license, the license will be deemed forfeited and the license is not eligible for renewal.

**P. License renewal.**

A valid marijuana business operating license may be renewed on an annual basis by submission of a renewal application upon a form provided by the Township and payment of the annual license fee set by Township. An application to renew a marijuana business operating license shall be filed along with all documents and information required by the Township, including the required Site Plan and Special Use Permit documentation, on or before November 30 of each year, effectively immediately. The failure to timely file an application for renewal of a license and all other documentation is sufficient grounds to deny renewal of a license to operate a marijuana business in the Township and is not subject to appeal.

The Township shall make reasonable efforts to review and process a timely filed application for renewal by March 31 of the calendar year in which the license is to be used.

If a licensee demonstrates compliance with the requirements for renewal of an operating license, including SUP approval for the time period to be covered by the license, the Township shall renew the existing license for a period of one year, on the condition that the state operating license for the facility is renewed and on any other conditions that the Township determines to be appropriate. The Township has the sole discretion to establish these conditions. No license shall be renewed until a corresponding SUP is approved by the Township Board.

**Q. Transfer of license.**

A marijuana business 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.

Each operating license is exclusive to the licensee and a licensee or any other person must apply for a license with the Township before a license is transferred, sold, or purchased. License transfer may occur only after written approval by the Township. The attempted transfer, sale, or other conveyance of an interest in a license without prior application for a Township operating license with the Township is grounds for suspension or revocation of the existing license.

**R. License as revocable privilege.**



An operating license granted by the Township is a revocable privilege granted by the Township and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.

**S. Nonrenewal, suspension or revocation of license.**

The Township may, after notice and hearing, suspend, revoke or refuse to renew a license for any of the following reasons:

The 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 ordinance or with any applicable state or local law or regulation;

The licensee, or its agent, manager, or employee, has failed to comply with any 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;

The marijuana commercial business has been operated in a manner that adversely affects the local public health, safety or welfare; or

The license holder failed to timely submit all necessary documents and or fees to renew the Township-issued license or state operating license.

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 of the marijuana business or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marijuana business, or an ongoing nuisance condition emanating from or caused by the marijuana business.

Nothing in this Ordinance shall prevent the Township from taking action against a licensee for nuisance based on other ordinance or other violations, including violations of the Zoning Ordinance.

**T. Forfeiture for Non-use**

Any license that is not used within 24 months of issuance shall be forfeited.

**ARTICLE III  
GENERAL REQUIREMENTS**

**A. Compliance with rules; inspections.**

A licensee shall strictly comply with the rules that may from time to time be promulgated by the Department.

All marijuana commercial business shall obtain all other required licenses or licenses related to the operation of the marijuana business, including, without limitation, any development approvals or building licenses required by any applicable code or ordinance.

Any failure by a licensee to comply with Department rules or the provisions of this ordinance is a violation of this ordinance, and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of the license issued under this ordinance.

#### **B. Security requirements.**

All marijuana businesses shall be surrounded by a security fence that is adjacent to the business for which the Township has issued a license. All security fences surrounding a marijuana grow shall be adjacent to the plants for which the Township has issued a license. A boundary fence shall not serve as a security fence.

The security system is required to be maintained in good working order and provide continuous twenty-four-hour-per-day recorded coverage. A separate security system is required for each business.

A marijuana business is required to install a fire suppression system and fire alarm system for the premises which meets the requirements imposed by applicable law, rule, or regulation.

#### **C. Visibility of activities.**

All activities of marijuana commercial operations shall be conducted indoors and out of public view, except cultivation may occur in an outdoor area, provided that the area is contiguous with the building containing the marijuana business operations, fully enclosed by fences or barriers that block outside visibility of the marijuana plants from public view, with no marijuana plants growing above the height of the fence or barrier and the fences are secured and only accessible to authorized persons and emergency personnel.

#### **D. Odor control.**

No marijuana business shall license the emission of marijuana odor resulting in detectable odors that leave the business premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

Whether a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

**E. Inspection of licensed premises.**

Application for a marijuana business license or operation of a marijuana business or leasing property to a marijuana business constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property, for the Township or the designee thereof to conduct routine examinations and inspections of the marijuana business to ensure compliance with this ordinance or any other applicable law, rule, or regulation. For purposes of this ordinance, examinations and inspections of marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of enforcement of this ordinance for the purpose of protecting the public safety, individuals operating and using the services of the marijuana business, and the adjoining properties and neighborhood.

Application for a marijuana business license constitutes consent to the examination and inspection of the business as a public premises without a search warrant and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a marijuana business license without a search warrant.

A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a Township 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 ordinance, the MMFLA, MRTMA, or applicable state administrative rules.

**F. Other laws remain applicable.**

To the extent the state adopts in the future any additional or stricter law or regulation governing the sale or distribution of marijuana, the additional or stricter regulation shall control the establishment or operation of any marijuana commercial business in the Township. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

**G. Grant of administrative authority.**

The Township is granted the power and duty to fully and effectively implement and administer the license application process and issuance of provisional approval licenses and operating licenses issued by the Township under this ordinance.

**H. Violations and penalties.**

Any person, including, but not limited to, any licensee, manager or employee of a marijuana commercial operation, or any customer of such business, who violates any of the provisions of this ordinance shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs and any other relief that may be imposed by the court.

In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this ordinance shall also be sufficient grounds for the suspension, revocation or nonrenewal of the Township operating license.

In addition to the possible denial, suspension, revocation or nonrenewal of the license issued under the provisions of this ordinance, the Township Attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person alleged to be in violation of this ordinance or the Township Zoning Code.

**I. Repealer.**

All prior ordinances relating to marijuana businesses are repealed.

**J. Severability.**

If any portion of this ordinance is held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

**K. Effective Date.**

This ordinance shall take effect from and after \_\_\_ days from the date of its passage.

**CERTIFICATION**

I certify that trustee \_\_\_\_\_ moved for adoption of said Ordinance No. \_\_\_\_\_ and that trustee \_\_\_\_\_, seconded said motion.

I further certify that the following members voted for adoption of said Ordinance: \_\_\_\_\_ and that the following members voted against such Ordinance: \_\_\_\_\_.

I further certify that said Ordinance No. \_\_\_\_\_ has been recorded in the Ordinance Book of the Township of Arlington and that such recording has been authenticated by the signatures of the Township Supervisor and Township Clerk.

\_\_\_\_\_

I do hereby certify that a synopsis of this Ordinance No. \_\_\_\_\_ in accordance with statutory requirements was published on \_\_\_\_\_, in the \_\_\_\_\_, a copy of which is attached hereto.

\_\_\_\_\_  
Douglas De Leo  
Township of Arlington, Clerk