

**VILLAGE OF ALPHA
COUNTY OF IRON, STATE OF MICHIGAN**

ORDINANCE NO. 104

ADULT-USE RECREATIONAL MARIHUANA ESTABLISHMENT ORDINANCE

An ordinance to authorize the operation of and provide regulations for recreational marihuana establishments within the Village of Alpha, (“Village”), pursuant to Adult-Use Marihuana Establishments Emergency Rules of July 3, 2019, and as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

THE VILLAGE OF ALPHA, IRON COUNTY, MICHIGAN ORDAINS:

SECTION I: TITLE

This ordinance shall be known as, and may be cited, as the Village of Alpha Adult-Use Recreational Marihuana Establishments Ordinance.

SECTION II: PURPOSE AND DEFINITIONS

1. It is the intent of this ordinance to authorize certain types of adult-use recreational marihuana establishments in the Village and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; to retain the character of the neighborhoods; and to mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana establishment in the Village through imposition of an annual fee as established in **Appendix B** on each adult-use recreational marihuana establishment licensee. Authority for the enactment of the provisions of this ordinance is set forth in the Adult-Use Marihuana Establishments Emergency Rules of July 3, 2019, *et seq.*

a) Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, *et seq.*; the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, *et seq.*, the Marihuana Tracking Act, Act 282 of 2016, *et seq.*, the Michigan Regulation and Taxation of Marihuana Act, Initiated Law of 2018, *et seq.*, the Executive Reorganization Order No. 2019-2, *et seq.*, and the Adult-Use Marihuana Establishments Emergency Rules of July, 2019, *et seq.*, as well as all other applicable rules or regulations promulgated by the State of Michigan.

b) As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 USC § 801, *et seq.*, which makes it unlawful to manufacture, distribute or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal law.

c) This ordinance shall not limit an individual or entity’s rights under the State of Michigan Marihuana acts, orders, and emergency laws, *et seq.*, as identified in Section 1.a above, as well as all other applicable rules or regulations promulgated by the State of Michigan. The provisions of the State of Michigan Marihuana acts, orders, and emergency laws, *et seq.*, shall supersede the provisions of this ordinance to the extent there is a conflict between the provisions of this ordinance and the provisions of the acts, orders, and emergency laws.

d) Any activity that a licensee is authorized to perform pursuant to this ordinance that was conducted either prior to the enactment of this ordinance, or that is conducted after the enactment of this ordinance but without obtaining the required licensing provided for in this ordinance, shall be

deemed to be an unauthorized and illegal use and therefore not entitled to legal nonconforming use status under any applicable provisions of the Village's ordinance.

2. For purposes of this ordinance;

a) Any term defined by the Adult-Use Marihuana Establishments Emergency Rules of July, 2019, *et seq.*, shall have the definition given in the Adult-Use Marihuana Establishments Emergency Rules of July, 2019, and any amendments thereto.

SECTION III: AUTHORIZED ADULT-USE MARIHUANA ESTABLISHMENTS

1. The number of adult-use marihuana establishments which may be authorized to operate within the Village by the holder of a State of Michigan operating license, subject to compliance with Adult-Use Marihuana Establishments Emergency Rules of July 3, 2019, and as may be amended, the Rules promulgated thereunder and this ordinance, are identified in **Appendix A**.

2. At least every five years after adoption of this ordinance, the Village Council shall review the maximum number of each type of marihuana establishment allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the Village Council.

3. On and after October 15, 2019, the Village shall accept applications for authorization to operate an adult-use marihuana establishments within the Village. Application shall be made on a Village form and must be submitted to the Village Clerk. Once the Clerk receives a complete application including the initial adult-use marihuana establishment fee as stated in **Appendix B**, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order.

4. Upon consideration, if the establishment-type authorization is available as indicated in **Appendix A**, then the applicant shall receive conditional authorization to operate such an adult-use marihuana establishment within the Village. If the establishment type authorization limit has been reached as indicated in **Appendix A**, additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive refund of the initial annual adult-use marihuana establishment fee submitted.

5. A conditional authorization means only that the applicant has submitted a valid application for a marihuana establishment license, and the applicant shall not locate or operate a marihuana establishment without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Village. A conditional authorization will lapse and be void if such permits and approvals are not diligently pursued to completion.

6. Within thirty (30) days from conditional authorization from the Village, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.

7. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (3) herein.

8. A conditionally authorized applicant shall receive full authorization from the Village to operate the adult-use marihuana establishment within the Village upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the adult-use marihuana establishment in the Village and the applicant has met all other requirements of this ordinance for operation, including, but not limited, to any location approval of the establishment within the Village.

9. If a conditionally authorized applicant fails to obtain full authorization from the Village within one (1) year from the date of conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (3) herein. The Village Council shall have authority to extend the deadline to obtain full authorization for up to an additional six (6) months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Village Council finding good cause for the extension.

SECTION IV: GENERAL REGULATIONS REGARDING AUTHORIZED ADULT-USE MARIHUANA ESTABLISHMENTS

1. No person shall operate an adult-use marihuana establishment in the Village without a valid adult-use marihuana establishment license issued by the Village pursuant to the provisions of this ordinance.
2. An authorized adult-use marihuana establishment shall only be operated within the Village by the holder of a state operating license issued pursuant to Adult-Use Marihuana Establishments Emergency Rules of July 3, 2019, as may be amended, and the Rules promulgated thereunder. Operation can only occur as long as the state operating license remains in effect.
3. Prior to operating and during operation, an authorized adult-use marihuana establishments within the Village pursuant to a state operating license must comply with all Village location requirements and other ordinance regulations.
4. Prior to operating an authorized adult-use marihuana establishments within the Village pursuant to a state operating license, the establishment must comply with all Village and County construction and building ordinances, all other Village ordinances specifically regulating adult-use marihuana establishment, and generally applicable Village ordinances. The establishment shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
5. An authorized adult-use marihuana establishment shall consent to inspection of the establishment by Village officials, by the Iron County Sheriff's Department, and/or by authorized representatives of the State of Michigan, upon reasonable notice, to verify compliance with this ordinance.
6. If at any time an authorized adult-use marihuana establishment violates this ordinance, the Village shall report such violation to the State, requesting revocation or refrain from renewing the establishment's state operating license. If the state operating license is revoked or not renewed, the Clerk shall cancel the Village authorization. The authorization can then be made available to the next applicant as provided for in Section III (2) herein.
7. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized adult-use marihuana establishment a vested right, license, privilege or permit to continued authorization from the Village for operations within the Village.
8. An adult-use marihuana establishment license issued under this ordinance is not transferrable or assignable.
9. The Village expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized adult-use marihuana establishment authorized to operate within the Village.

SECTION V: VIOLATIONS AND PENALTIES

1. Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance shall be a misdemeanor, for which the punishment for a first violation shall be a fine of not less than \$100.00 and not more than \$500.00, or imprisonment not to exceed ninety (90) days, or both, in the

discretion of the court. The punishment for a second or subsequent violation shall be a fine of not less than \$250.00 and not more than \$500.00, or imprisonment not to exceed ninety (90) days, or both, in the discretion of the court. For purposes of this section, "second or subsequent violation" means a violation of the provisions of this ordinance committed by the same person within twelve (12) calendar months of a previous violation of the same provision of this ordinance for which said person pled or was adjudicated guilty. The foregoing penalties shall be in addition to the rights of the Village to proceed at law or equity with other appropriate and proper remedies.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Village may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

5. This ordinance shall be administered and enforced by such person(s) as designated by the Village Council from time to time.

SECTION VI: SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing adult-use marijuana establishments pursuant to Adult-Use Marijuana Establishments Emergency Rules of July 3, 2019, as may be amended.

SECTION VII: APPENDICES

Appendix A: The Adult-Use Marijuana Establishments Appendix A shall identify the available types and number of each type of adult-use marijuana establishment which may be allowed in the Village of Alpha.

Appendix B: The Adult-Use Marijuana Establishments Appendix B shall identify the initial and renewal fee schedule for establishments applying for said licenses within the Village of Alpha.

Both Appendix A and Appendix B are subject to change based upon review and modification by the Village Board, upon motion and majority vote.

SECTION VIII: EFFECTIVE DATE

This ordinance shall take effect October 15, 2019 (twenty (20) days after publication).

The foregoing ordinance was duly adopted at a meeting of the Alpha Village Council held on the 12th day of September, 2019

* Steven J. Martin, President Pro-Tem

* Sharon Eaton, Village Clerk