

ORDINANCE NO. 152

ORDINANCE AMENDING THE VILLAGE OF PINCKNEY CODE OF ORDINANCES BY AMENDING TITLE XI, BUSINESS REGULATIONS, CHAPTER 113, MISCELLANEOUS BUSINESSES REQUIRING A LICENSE, §§ 113.30 - 113. 113.44, AND REPEALING TITLE XIII, GENERAL OFFENSES, CHAPTER 132, CRIME, §132.140

The Village of Pinckney ordains:

Section 1. The Code of Ordinances of the Village of Pinckney, Title XI, *Business Regulations*, Chapter 113, *Miscellaneous Businesses Requiring a License*, is amended to repeal §113.36, entitled *Application Review*; §113.37, entitled *License Requirements*, §113.42, entitled *Community Benefits Program*, and §113.44, entitled *Severability and Execution*; and to amend §113.30, entitled *Purpose*, §113.31, entitled *Definitions*, §113.32, entitled *Acts Prohibited*, §113.33, entitled *Authorization Of Marihuana Establishments*, §113.34, entitled *Provisional License Applications*, and §113.35, entitled *Application Fee*; and to renumber and amend §113.38, entitled *Licenses Generally*, §113.39, entitled *Renewals*, §113.40, entitled *License Revocation or Suspension*, §113.41, entitled *Criteria for Nonrenewal, Suspension, or Revocation of License*, and §113.43, entitled *Penalty*, of the Code of Ordinances, Village of Pinckney, as added to the Code of Ordinances by Ordinance No. 151, to read as follows:

§ 113.30 PURPOSE.

The purpose of this Ordinance is to regulate recreational Marihuana Establishments, consistent with the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 *et seq.* (hereafter referred to as the “MRTMA”), The Village finds that these activities are significantly connected to the public health, safety, security and welfare of its residents and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities. This ordinance also provides a method to defray the costs incurred by such regulation and enforcement.

It is not the intent of this Ordinance to diminish, abrogate or restrict protections for the medical use of marihuana provided in the Michigan Medical Marihuana Act. Nothing in this Ordinance is intended to grant individuals immunity from the enforcement of federal laws prohibiting marihuana activity. The provisions of this Ordinance are regulatory in nature and not intended to be interpreted as zoning laws.

§ 113.31 DEFINITIONS. Words and phrases used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27953 of the MRTMA, as the same may be amended from time to time, which words and phrases are incorporated herein by reference.

§ 113.32 ACTS PROHIBITED.

A. No person shall operate a Marihuana Establishment in the Village without first obtaining a state license as per the State of Michigan Marihuana Regulatory Agency (hereafter referred to as the “Agency”) and Village license pursuant to the MRTMA and in accordance with the provisions of this Code, and

B. A licensed Marihuana Establishment in the Village shall be subject to all applicable Village Zoning regulations including but not limited to site plan, design, location, signage, parking, lot and building size, and occupancy, as well as those regulations and building specifications unique to this type of business.

§ 113.33 AUTHORIZATION OF MARIHUANA ESTABLISHMENTS.

Except as provided herein and pursuant to the MRTMA, the Village shall authorize the following number of state licensed Marihuana Establishments to operate within its boundaries:

1. Marihuana Safety Compliance Facility - one (1) license
2. Marihuana Secure Transporter - one (1) license
3. Marihuana Microbusiness - one (1) license
4. Marihuana Retailer -one (1) license
5. Marihuana Processor - one (1) license
6. Marihuana Grower (any class) — one (1) license

§ 113.34 Requirements and Procedures for Issuing Municipal Licenses.

No person shall operate a marihuana establishment in the Village without a valid municipal license issued by the Village pursuant to the provisions of this ordinance.

No person shall be issued a municipal license by the Village without first having obtained a Special Use Permit authorizing the operation of the establishment pursuant to the Village of Pinckney Zoning Ordinance.

No person who is employed by the Village, acts as a consultant for the Village or acts as an advisor to the Village, and is involved in the implementation, administration or enforcement of this Ordinance shall have an interest, directly or indirectly, in a Marihuana Establishment.

Every applicant for a municipal license to operate a marihuana establishment shall file

an application in the Village Clerk's office upon a form provided by the Village. The application shall include:

- a) The appropriate nonrefundable municipal license application fee in the amount determined by the Village;
- b) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
- c) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each Stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;
- d) The name and address of the proposed marijuana establishment;
- e) A copy of the Special Use Permit issued by the Village of Pinckney Planning Commission;
- f) A location area map of the marijuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marijuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;
- g) A signed acknowledgment that the applicant is aware and understands that all matters related to marijuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the Village, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its Stakeholders and agents of those laws, rules, and regulations; and

h) Any other information which may be required by the Village Clerk.

Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the Village Clerk shall file the same and assign it a sequential application number by establishment type based on the date and time of acceptance. The Village Clerk shall act to approve or deny an application not later than ninety (90) days from the date the completed application is filed. If approved, the Village Clerk shall issue the applicant a provisional License. A final license shall be approved by Village Council after issuance by the state of Michigan of an operating license. Such approval will occur at Council's regularly scheduled meeting after village has received notice of state approval of an operating license.

If the application is denied, the Village Clerk shall issue a written notice of denial to the Applicant and mail the same by first class mail to the address for the Applicant provided in the application.

Should the Village Clerk deny an application, the Applicant shall have thirty (30) days from the mailing of the denial to appeal the denial to the Village Council. To appeal the decision of the Village Clerk the Applicant must file a notice of appeal with the Village Clerk. Village Council shall hear the appeal at its next regular meeting, but not sooner than seven (7) days from the receipt of the appeal.

Maintaining a valid license issued by the state is a condition for the maintenance of a license under this ordinance and continued operation of a marihuana establishment. A provisional license does not authorize operations until a final license is issued, which will only occur upon issuance of the appropriate license by the state of Michigan and the issuance of a Certificate of Occupancy.

A License issued under this ordinance is not transferable without the prior approval of the Village under the same terms and conditions required for the initial issuance of a license under this Ordinance.

The MRTMA in Section 9.4. (MCL 333.27959 4.) requires that the Village establish a competitive process to select applicants who are best suited to operate in compliance with the MRTMA and this Ordinance, when more than one applicant has applied for a single available license. The process for scoring and ranking applications in competition shall be detailed in the Village's Marihuana Business Scoring and Ranking Policy. Pursuant to this requirement the Village requires that applicants provide:

a) An estimate of the number and type of jobs that the marihuana establishment is expected to create, and the amount and type of compensation expected to be paid for such jobs;

- b) A business plan which contains, but is not limited to, the following: The applicant's experience in operating other similarly permitted or licensed businesses and the applicant's general business management experience; The proposed ownership structure of the establishment, including percentage ownership of each person or entity; A current organizational chart that includes position descriptions and the names of each person holding each position; Planned tangible capital investment in the Village, including if multiple permits are proposed, an explanation of the economic benefits to the Village and job creation, if any, to be achieved through the award of such multiple permits, with supporting factual data; Expected job creation from the proposed marihuana establishment(s); If a Marihuana Grower Establishment is proposed, the number of plants anticipated; Financial structure and financing of the proposed marihuana establishment(s); and; Community outreach/education plans and strategies.
- c) A written description of the training and education that the Applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees; and
- d) A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction into the sewerage system is prohibited.

§ 113.35 APPLICATION FEE.

The Village shall establish a nonrefundable Provisional License application fee to be paid upon filing any application for a Marihuana Establishment by a Local Applicant. The amount of the initial Provisional License application fee shall be set by Council annually as part of the Village Fee Schedule and to be paid to the Village upon approval of a state operating license issued by the Agency for the License Type at the Business Facility Address.

The municipal license fee is in addition to any other fees required, including but not limited to zoning fees.

§ 113.36 LICENSES GENERALLY.

A. A Village Full License Authorization that is issued under this Code, and the state operating license shall be posted at all times inside the Marihuana Establishment in a conspicuous location near the entrance.

B. Except as provided in this Code, the term of a Village Full License Authorization shall be for one (1) calendar year subject to renewal.

§ 113.37 RENEWALS.

A. Provisional Licenses shall be valid for one (1) calendar year from the date they are issued.

B. Application for a Village Full License Authorization renewal shall be made in writing to the Clerk at least ninety (90) days prior to the expiration of an existing license. Licenses shall be renewed annually.

C. An application for a Provisional License renewal or a Village Full License Authorization renewal required by this Code shall be made under oath on forms provided by the Clerk.

D. An application for a Provisional License renewal or a Village Full License Authorization renewal shall be accompanied by a renewal fee, which shall be set by resolution of the Village Council, but shall not exceed five thousand dollars (\$5,000).

§ 113.38 LICENSE REVOCATION OR SUSPENSION.

Each Marihuana Establishment within the Village for which a Village Full License Authorization is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations in the Village and State. Upon any material violation of this Code that a Local Applicant has failed to remedy, the Clerk may revoke or suspend such license as hereinafter provided. The time allowed for remedy will depend upon the violation but shall be no fewer than three (3) days and no more than fourteen (14) days.

§ 113.39 CRITERIA FOR NONRENEWAL, SUSPENSION, OR REVOCATION OF LICENSE.

In addition to any other reasons set forth in this Code, the Village may refuse to issue a license or grant renewal of the license or suspend or revoke the license for any of the following reasons:

A. A material violation of any provision of this Code that a license holder has failed to remedy after being provided with sufficient time to make the correction. Failure to meet the requirements of § 113.39 (C) of this Code shall be considered a material violation of this Code.

B. The inability of the licensee or Provisional License holder to obtain or maintain a license from the Agency pursuant to the MRTMA within one (1) calendar year after the issuance of a Provisional License, subject to.

C. Failure of the licensee to demonstrate to the Village that it has complied with minimum business standards: (see above)

§ 113.40 PENALTY.

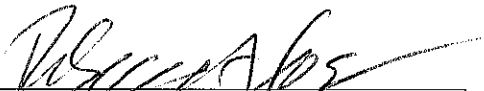
A person or entity who violates any of the provisions of § 113.30 through §113.40 of this Code of Ordinances shall be responsible for a municipal civil infraction punishable by a civil fine of no more than five hundred (\$500.00) dollars, as provided in Section 10.99 of this Code of Ordinances.

Section 2. Repealer Clause. Village of Pinckney Code of Ordinances §113.36, entitled *Application Review*; §113.36, entitled *License Requirements*; §113.42, entitled *Community Benefits Program*; and §113.44, entitled *Severability and Execution*, as added to the Code of Ordinances by Ordinance No. 151; and Code §132.140, entitled *Possession Of Marijuana*, of Title XIII, *General Offenses*, Chapter 132, *Crime*, of the Village of Pinckney Code of Ordinances; and any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

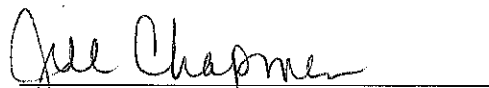
Section 3. Savings Clause. This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed, and this ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the Village, County or other person, either criminal or civil, that may have already occurred, accrued or grown out of any ordinance, resolution, order or policy, or any part thereof, hereby repealed. This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any Ordinance, Resolution, Order or parts thereof, hereby repealed.

Section 4. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

Section 5. Effective Date. This Ordinance shall be effective twenty (20) days after its passage, or from and after its publication, whichever is later.



Rebecca Foster, Village President



Jill Chapman, Village Clerk

Village Council Member Lavey offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member Tibus, and upon being put to a vote, the vote was as follows:

Rebecca Foster, President
Eirik Kauserud, Trustee
Ted Kinczkowski, Trustee
Linda E. Lavey, Trustee
Brian Matson, Trustee
Shawn Tibus, Trustee
Robert Vedder, Trustee

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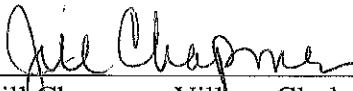
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The President thereupon declared this Ordinance adopted by the electorate was approved for incorporation into the Village Code of Ordinances by the Village Council of the Village of Pinckney this 23rd day of November, 2020.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 152 adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on November 23, 2020.



Jill Chapman, Village Clerk