

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

JOBS FOR PINCKNEY, a ballot question committee,
LIBERTY WELLNESS, LLC, and J LEAF, LLC,

Plaintiffs/Counter-Defendants,

Case No. 21-31027-CZ

v

Hon. L. Suzanne Geddis

VILLAGE OF PINCKNEY,

Defendant/Counter-Plaintiff.

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**DEFENDANT'S ANSWER AND BRIEF IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

INTRODUCTION

Defendant/Counter-Plaintiff Village of Pinckney, by its attorneys, Cohl, Stoker & Toskey, P.C., answers and opposes Plaintiffs/Counter-Defendants' Motion for Preliminary Injunction. Plaintiffs initiated this action by the filing of a one-Count Complaint for Declaratory Relief, in which they seek a declaratory judgment from this Court that the Village of Pinckney Ordinance 152 "exceeds the scope of a municipality's authority pursuant to MRTMA," and request a Court Order that Ordinance 152 be "repealed." The Complaint was accompanied by Plaintiffs' Motion for Preliminary Injunction, even though there are no allegations in the Complaint in support of injunctive relief.

The Village of Pinckney filed a Counterclaim seeking a declaratory judgment from this Court that the Jobs for Pinckney ordinance initiated under MCL 333.27956(1) is invalid, for two reasons: (1) it cannot apply in a municipality that has opted out of permitting marihuana establishments, and (2) in the alternative, it is not limited to providing the number of marihuana establishments. The Village also seeks a declaratory ruling that the Pinckney Village Council is authorized by law to amend an ordinance initiated under MCL 333.27956(1).

Plaintiffs' Motion for Preliminary Injunction is not supported by evidence establishing that Plaintiffs will suffer immediate and irreparable harm in the absence of injunctive relief, nor can Plaintiffs establish that they have a substantial likelihood of success on the merits of their claim, particularly in light of the Village's Counterclaim challenging the validity of the initiated ordinance upon which Plaintiffs base their claims for declaratory and injunctive relief. The balance of equities in this matter weigh in favor of the Village, and the public interest militates against the grant of injunctive relief for

Plaintiffs. Plaintiffs' Motion for Preliminary Injunction should be denied, and a Declaratory Judgment should be entered for the Village that the initiated ordinance is invalid.

STATEMENT OF FACTS

The Village of Pinckney is a general law village, which is created by the Michigan General Law Village Act, being MCL 61.1 - 75.12. This Michigan statute serves as the charter for general law villages, such as the Village of Pinckney. The Village Council is statutorily authorized to enact ordinances, but the statutory Village Charter does not allow for voter initiatives. Thus, a ballot initiative for a Village Ordinance may only be approved if it is expressly authorized by State statute, and is limited to the scope of that statutory authorization.

On November 12, 2018, after the enactment of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 *et seq.* (the "MRTMA"), the Pinckney Village Council opted out, by adopting Ordinance 145 prohibiting all statutorily-described marihuana establishments in the Village, as permitted under the MRTMA. (See copy of Ordinance 145, attached as Exhibit A.)

Section 6(1) of the MRTMA allows individuals "to petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election...."

On July 28, 2020, Jobs for Pinckney submitted a petition for an initiated ordinance under Sec. 6(1) of the MRTMA, which petition was subsequently approved by the Putnam Township Clerk for placement on the November 3, 2020 ballot.

The proposed initiated ordinance was not limited to providing for the number of

marihuana establishments in the Village of Pinckney (which by Ordinance 145 did not permit them), but rather, the proposed initiated ordinance set forth a comprehensive administrative regulatory system for recreational marihuana, consisting of several pages addressing license applications, scoring procedures, social equity, community benefits, and numerous other detailed rules, regulations, procedures, and penalties. (See copy of proposed initiated ordinance, attached as Exhibit B.)

On November 3, 2020, a majority of the electors in the Village of Pinckney voted to approve the initiated ordinance. On November 23, 2020, the Pinckney Village Council adopted the initiated ordinance as Ordinance 151. (See copy of Ordinance 151, attached as Exhibit C.)

On November 23, 2020, the Pinckney Village Council also adopted Ordinance 152, which repealed several sections of Ordinance 151, and provided regulations for the licensing of marihuana establishments in the Village. (See copy of Ordinance 152, attached as Exhibit D.)

Also on November 23, 2020, the Pinckney Village Council adopted Resolution 2020-26, establishing a temporary moratorium on accepting license applications or issuing licenses or permits for marihuana establishments, until March 1, 2021 but no longer than April 1, 2021, to allow the Village to clarify the marihuana ordinance and its requirements, develop the necessary forms and procedures, and determine and arrange for the necessary staffing to implement the licensing of marihuana establishments in the Village. (See copy of Resolution 2020-26, attached as Exhibit E.)

On January 29, 2021, Plaintiffs/Counter-Defendants filed their Complaint for Declaratory Relief in this case, alleging that Jobs for Pinckney's initiated ordinance could

not be amended by the Village Council, and seeking a declaratory judgment holding that Ordinance 152 exceeds the scope of a municipality's authority pursuant to the MRTMA, and therefore Ordinance 152 must be repealed. The Complaint was accompanied by Plaintiffs' Motion for Preliminary Injunction.

In response to Plaintiffs' Complaint, the Village of Pinckney filed its Counterclaim, seeking a Declaratory Judgment that the Jobs for Pinckney ordinance initiated under MCL 333.27956(1) is invalid, for two reasons: (1) it cannot apply in a municipality that has opted out of permitting marihuana establishments, and (2) in the alternative, it is not limited to providing the number of marihuana establishments. The Village also seeks a declaratory ruling that the Pinckney Village Council is authorized by law to amend an ordinance initiated under MCL 333.27956(1). The Village of Pinckney opposes Plaintiffs' Motion for Preliminary Injunction.

ARGUMENT

I. PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION SHOULD BE DENIED

A. Standards for Injunctive Relief.

The remedy sought by Plaintiffs on their Motion for Preliminary Injunction is to enjoin the Village from enforcing Ordinance 152, and to order the Village to enforce the Jobs for Pinckney initiated ordinance. Injunctive relief is an extraordinary remedy that will be granted only when (1) justice requires it, (2) there is no adequate remedy at law, and (3) there exists a real and imminent danger of irreparable injury. *Higgins Lake Prop Owners Ass'n v Gerrish Twp*, 255 Mich App 83, 106; 662 NW2d 387 (2003).

In considering the propriety of an injunction, this Court will consider the following factors: (1) the likelihood that the party seeking the injunction will prevail on the merits;

(2) the danger that the party seeking the injunction will suffer irreparable injury if the injunction is not issued; (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief; and (4) the harm to the public interest if the injunction is issued. *Michigan State Employees Ass'n v Dep't of Mental Health*, 421 Mich 152, 157-158; 365 NW2d 93 (1984).

B. Plaintiffs Have Not Established Grounds for Injunctive Relief.

Plaintiffs did not request injunctive relief in their Complaint for Declaratory Relief, and did not support their Motion for Preliminary Injunction with any verification or affidavits. Nor did their Complaint request the provisional reinstatement of the initiated ordinance. Regardless, the Village is still operating under a moratorium on accepting license applications or issuing licenses or permits for marihuana establishments, which moratorium is not being challenged by Plaintiffs in this case.

Plaintiffs' Motion for Preliminary Injunction should be denied, as they have not established sufficient grounds for its issuance. Moreover, their proposed remedy would allow an invalid ordinance governing marihuana establishments to be imposed on the Village.

1. No Substantial Likelihood of Success on the Merits.

Plaintiffs have no substantial likelihood of success on the merits of their claim. Plaintiffs' claim in their one-Count Complaint is for a declaratory judgment that Ordinance 152 "exceeds the scope of a municipality's authority pursuant to MRTMA." However, it is the Jobs for Pinckney initiated ordinance that exceeds the scope of an initiative under Sec. 6(1) of the MRTMA, MCL 333.27956(1), as alleged in the Village's Counterclaim, and must be declared invalid. Regardless, the Village Council is authorized under

MRTMA Secs. 6(1)-(4) to adopt ordinances regulating marihuana establishments in the Village, without regard to whether there was a voter-initiated ordinance. It could have adopted Ordinance 152 on its own accord notwithstanding the voter initiative. Even so, nothing in the law restricts the Village Council's ability to amend a voter-initiated ordinance.

a. Prior Litigation Did Not Address the Validity of the Initiated Ordinance.

In their Brief in Support of Motion for Preliminary Injunction, Plaintiffs recount the history of Plaintiff Jobs for Pinckney's efforts to place the initiated ordinance on the ballot, which they describe as "harrowing." (Brief, pp 5-8.) However, Plaintiff's problems stemmed from its failure to pursue the proper procedure, and its misguided and wasteful lawsuit against the Village Council and Village Clerk, not to mention the fact that the proposed initiated ordinance was invalid as it clearly exceeded the statutory scope for such an ordinance permitted under the MRTMA. At no time did the Village "subvert" Plaintiff's attempt to place the issue on the ballot, as it had no authority to do so, as determined by this Court.¹ At most, the Village has consistently taken the position that the proposed initiated ordinance was invalid, as it far exceeded the scope permitted under Sec. 6(1) of the MRTMA.

Jobs for Pinckney first attempted to file its Petition to place the initiated ordinance on the ballot on July 28, 2020, the last day of the deadline for submission of the Petition. Plaintiff erroneously attempted to file the Petition with the Pinckney Village Clerk for

¹ Plaintiffs seek to distract this Court from the invalidity of the initiated ordinance by raising irrelevant arguments that the Village allegedly violated the Michigan Campaign Finance Act, MCL 169.257, as to its publication of educational materials on the ballot question in advance of the election. (Brief, pp 8-9.)

certification, instead of filing it with the Putnam Township Clerk, who is responsible for all Village elections. As the proposed initiated ordinance pertained to the Village of Pinckney, the Pinckney Village Council had the option of adopting the proposed ordinance. After considering the matter at its August 10, 2020 meeting, the Village Council decided not to adopt it. The Village President also notified Plaintiff that the Petition was not limited to the subject matter permitted for an initiative brought under Sec. 6(1) of the MRTMA.

Plaintiff Jobs for Pinckney then filed a Complaint in this Court against the Village Council and the Village Clerk, seeking mandamus relief. This Court correctly denied mandamus relief as to the Village Council and Village Clerk, as they had no clear legal duty to certify the Petition, but permitted Plaintiff to amend its Complaint to name the Putnam Township Clerk. The case was dismissed upon Plaintiff's failure to timely file the Amended Complaint. The Putnam Township Clerk had never filed an Answer, and this Court never made a ruling on the claim of mandamus against the Putnam Township Clerk. The issue as to the validity of the proposed initiated ordinance was never reached.

On appeal, the Court of Appeals panel issued an Order simply directing the issuance of a writ of mandamus against the Putnam Township Clerk to certify the Petition. The Court of Appeals did not disturb the dismissal of the Plaintiff's claims against the Pinckney Defendants, nor did it make any ruling as to whether the Petition was beyond the scope of the MRTMA.

Upon issuance of the writ of mandamus by this Court on remand, the Putnam Township Clerk complied. However, since the deadline for submission of ballot questions was long past, the Livingston County Clerk declined to place the issue on the November

2020 ballot. Plaintiff Jobs for Pinckney then filed a Complaint against the County Clerk, seeking mandamus relief. This Court denied the requested relief, on the grounds that it was time-barred and moot. On appeal, the Court of Appeals panel issued an Order peremptorily reversing this Court, directing the issuance of a writ of mandamus against the County Clerk to place the issue on the ballot, notwithstanding that fact that mandamus was sought after the statutory deadline for placement on the ballot. The Court of Appeals did not rule on whether the proposed initiated ordinance was beyond the scope of the MRTMA.

Plaintiff Jobs for Pinckney argued in the prior litigation involving its proposed initiated ordinance that challenges regarding a petition's substance have been viewed as premature if brought before the initiative legislation comes into effect. See *Citizens Protecting Michigan's Constitution v Secretary of State*, 324 Mich App 561, 586; 922 NW2d 404 (2018). See also *Coalition for a Safer Detroit, v Detroit City Clerk*, 295 Mich App 362, 371-372; 820 NW2d 208 (2011)(a pre-election determination of the validity of a ballot initiative substantially interferes with the legislative function; a substantive challenge to a proposed initiative is improper until after the law is enacted). That may be why no Court addressed the issue that the proposed initiated ordinance exceeded the statutory scope, such that the proposal was not prevented from being placed on the ballot. Rather, the Village was required to wait until after the election, and the passage of the ballot initiative, to raise a challenge to its validity, which it is now doing in this case. Even so, various panels of the Court of Appeals have considered the issue, and ruled consistent with the Village's position here.

b. The Court of Appeals Has Ruled that an Initiated Ordinance under the MRTMA is Invalid if Not Limited to the Number of Establishments.

Even though no Court in the prior litigation involving the Jobs for Pinckney initiated ordinance, including the Court of Appeals, addressed the invalidity of the proposed initiated ordinance, several other panels of the Court of Appeals ruled that substantially similar proposed initiated ordinances were invalid, and prevented them from being placed on the ballot.

In *Jobs for Farmington v Mullison*, Court of Appeals Case No. 354743, the Court of Appeals affirmed the Circuit Court's denial of mandamus relief, holding that the plaintiff ballot committee did not have a clear legal right for its proposed initiative to appear on the ballot, and the City Clerk did not have a clear legal duty to include the proposed initiative on the ballot. In its September 9, 2020 Order (copy attached as Exhibit F), the Court stated:

Plaintiff's proposed ballot language far exceeds the scope of MCL 333.27956(1), which allows individuals to "petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality..." Plaintiff's proposed initiative encompasses more than providing for the number of marihuana establishments.

That same panel of the Court of Appeals ruled similarly in *Jobs for Oakland v Neeb*, Court of Appeals Case No. 354755, affirming the denial of mandamus relief, using the exact same language quoted above in its September 10, 2020 Order that the ballot language exceeded the statutory scope (copy attached as Exhibit G).

In *Jobs for Monroe v Monroe City Clerk*, Court of Appeals Case No. 354758, another panel of the Court of Appeals ruled consistently with the two above-referenced decisions:

Plaintiff did not have a clear legal right to have its proposed initiative to appear on the ballot and defendant did not have a clear legal duty to include the proposed initiative on the ballot. Plaintiff's proposed ballot language far exceeds the scope of MCL 333.27956(1), which allows individuals to 'petition to initiate an ordinance to provide for the **number** of marihuana establishments allowed within a municipality...." The circuit court did not abuse its discretion by denying plaintiff's request for mandamus relief.

(Emphasis in original). See September 11, 2020 Order, attached as Exhibit H.

c. The Initiated Ordinance is Invalid.

The MRTMA only allows a ballot initiative petition to provide for the number of marihuana establishments allowed in the Village. Section 6(1) of the MRTMA states:

1. Except as provided in section 4, a municipality may completely prohibit or limit the number of marihuana establishments within its boundaries. **Individuals may petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality** or to completely prohibit marihuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election. A petition under this subsection is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. (Emphasis added).

Nowhere in the MRTMA are individuals empowered to initiate an ordinance that would regulate such establishments. Rather, the power to license and regulate marihuana establishments is reserved to the municipality. MCL 333.27956(2) – (4). The Jobs for Pinckney initiated ordinance thus is not authorized by the MRTMA, as it purports to regulate the marihuana establishments it seeks to authorize.

Instead of merely providing for the number of marihuana establishments, e.g., two marihuana retailers, one safety compliance facility, etc., the initiated ordinance sets forth a comprehensive regulatory system for recreational marihuana, consisting of several pages addressing license applications, scoring procedures, social equity, community

benefits, and numerous other detailed rules, regulations, procedures, and penalties, all of which are the exclusive province of the Village Council under Secs. 6(2)-(4) of the MRTMA. The initiated ordinance clearly exceeds the limited statutory authorization in Sec. 6(1) of the MRTMA for an initiative “to provide for the number of marihuana establishments.”

Had there been a Circuit Court ruling denying mandamus relief against the Putnam Township Clerk, the Court of Appeals likely would have affirmed that decision, consistent with the parallel cases quoted above. The Jobs for Pinckney proposed initiated ordinance should never have been placed on the ballot, as it clearly exceeded the scope of Sec. 6(1) of the MRTMA. The time is ripe in the present litigation for this Court to confirm that the initiated ordinance is invalid, and therefore Plaintiffs have no substantial likelihood of success on the merits of their claim for declaratory relief challenging the validity of Ordinance 152.

2. Plaintiffs Will Not Suffer Irreparable Injury.

Plaintiffs have failed to show irreparable injury. As was stated in *Royal Oak School Dist v State Tenure Comm*, 367 Mich 689; 117 NW2d 181 (1962):

Equity should not be used to obtain injunctive relief where there is no proof that complainant would suffer irreparable injury.

Plaintiffs’ alleged injury, which is not supported by any evidence, is that two of them secured options to purchase property in the Village in which they intend to operate a marihuana establishment. They claim to have relied on the “application window” in the initiated ordinance. However, an initiated ordinance cannot validly contain an “application

window,” or any other substantive regulations.² It was unreasonable for Plaintiffs to rely on that, having been on notice early on in the process that the proposed initiated ordinance was beyond the scope permitted by Sec. 6(1) of the MRTMA, and was thus invalid.

Any alleged injury based upon an unreasonable reliance on an invalid ordinance was incurred at Plaintiffs’ peril, especially where Plaintiffs likely failed to take into account any applicable zoning ordinances that would affect whether or not their optioned property could legally be used for a licensed marihuana establishment. The initiated ordinance did not (and could not) address Village zoning, and the Village retained the exclusive authority to regulate the zoning for marihuana establishments, which is not in conflict with the MRTMA. See, e.g., *DeRuiter v Twp of Byron*, 505 Mich 130, 147; 949 NW2d 91 (2020)(a zoning ordinance regulating the location of an activity is not conflict-preempted as long as its additional requirements do not contradict the requirements set forth in the statute).

Regardless, there remains in place a valid moratorium on the acceptance of applications for marihuana establishment licenses, which moratorium is not the subject of any legal challenge in this case or otherwise. Even so, the moratorium expires soon, and there is no indication that it will be extended.

² Plaintiffs argue that Ordinance 152 is “unreasonably impracticable” because it lacks a timeline for acceptance of applications or scoring criteria. (Brief, pp 20-21). What they really mean is that the timeline and scoring criteria that are set forth in the Ordinance are different from those contained in the initiated ordinance. Ordinance 152 (Exhibit D) clearly states a timeline for processing applications, and provides for a competitive process intended to select applicants who are best suited to operate in compliance with the MRTMA within the Village, in compliance with MCL 333.27959(4).

3. The Harm to the Defendant Clearly Outweighs Any Harm to Plaintiffs; An Injunction Would Harm the Public Interest.

In the exercise of its preliminary injunctive powers, the Court must weigh the relative harm to the plaintiff if the requested preliminary injunction is denied against the harm to the defendant if the relief is granted, *Niedzialek v Barbers Union*, 331 Mich 296; 49 NW2d 273 (1951); *Huron Valley Publishing Co v Booth Newspapers, Inc*, 336 F Supp 659 (ED Mich, 1972), as well as to the possible harm or inconvenience to the public, *Wyoming Twp v Stuart*, 158 Mich 60; 122 NW 214 (1909).

The Village would be harmed if injunctive relief were granted for Plaintiffs, as that would impinge upon its ability to provide for the proper licensing and regulation of marihuana establishments, which are matters within its exclusive province. Plaintiffs' harm, if any, results from their own precipitous actions in reliance on an invalid ordinance.

The public interest would be harmed by an injunction in this case, as a municipality cannot have the application criteria and other regulatory provisions for marihuana establishments imposed upon it. Other prospective applicants for marihuana establishments have acted in reliance on the Village Council's adoption of Ordinance 152 and amendments to the Village Zoning Ordinance (see Ordinance 153, attached as Exhibit I), e.g., by seeking and obtaining a conditional rezoning of property for a marihuana establishment (see Ordinance 156, attached as Exhibit J).

II. THE COURT SHOULD ISSUE A DECLARATORY JUDGMENT THAT THE INITIATED ORDINANCE IS INVALID

The Jobs for Pinckney ordinance initiated under MCL 333.27956(1) is invalid, for two reasons: (1) it cannot apply in a municipality that has opted out of permitting marihuana establishments, and (2) in the alternative, it is not limited to providing the

number of marihuana establishments. The Village also seeks a declaratory ruling that the Pinckney Village Council is authorized by law to amend an ordinance initiated under MCL 333.27956(1).

Statutory interpretation begins with the plain language of the statute. *Driver v Naini*, 490 Mich 239, 246-247; 802 NW2d 311 (2011). Courts read the statutory language in context and as a whole, considering the plain and ordinary meaning of every word. *Hamed v Wayne Co*, 490 Mich 1, 8; 803 NW2d 237 (2011). When the language is clear and unambiguous, Courts will apply the statute as written and judicial construction is not permitted. *Driver, supra*, 490 Mich at 247. Even so, a statute should be construed to avoid absurd results that are manifestly inconsistent with legislative intent. *Detroit Int'l Bridge Co v Commodities Export Co*, 279 Mich App 662, 674; 760 NW2d 565 (2008)

A. An Initiated Ordinance Cannot Apply in an Opt-Out Municipality.

Under Sec. 6(1) of the MRTMA, MCL 333.27956(1), individuals may petition to initiate an ordinance (a) to completely prohibit marihuana establishments, or (b) to provide for the number of marihuana establishments, i.e., a lesser or greater number of establishments from the number already allowed by ordinance. The intent is not to authorize the voters to initiate an ordinance permitting marihuana establishments in a municipality in which they do not already exist.

A plain reading of the statute indicates that an initiated ordinance is limited to changing the number of establishments, which suggests that some number of establishments must already be permitted by current ordinance. Certainly, the ability to completely prohibit marihuana establishments could only apply where a current ordinance permits them, such that the number may be reduced to zero. The ability to provide a

number of establishments other than zero also indicates that some number of establishments is already allowed. Thus, if a municipality had adopted an ordinance prohibiting marihuana establishments, no such initiated ordinance could apply.

In the case of the Village of Pinckney which had already opted out by prohibiting all marihuana establishments, the voters could not initiate an ordinance to provide for a different number of establishments (including zero), because no establishments were allowed under the opt-out ordinance. Moreover, the initiative being limited to the number of establishments, a resulting ordinance would simply determine the number, without any provisions for licensing and regulation, which makes no sense unless there is already an ordinance in place allowing marihuana establishments and providing for their licensure and regulation.

This is clear from the language of Secs. 6(2)-(4) of the MRTMA, which reserve to the municipality the power to adopt ordinances for the licensing and regulation of marihuana establishments:

2. A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act and that:

(a) establish reasonable restrictions on public signs related to marihuana establishments;

(b) regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories;

(c) authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and

(d) designate a violation of the ordinance and provide for a penalty for that violation by a marihuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than \$500.

3. A municipality may adopt an ordinance requiring a marijuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department.

4. A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment in the municipality.

Allowing the voters to provide by ordinance for a number of marijuana establishments where none already exist is nonsensical. That is because there would be no existing regulatory infrastructure to deal with the licensing, regulation and zoning issues that are necessary to accommodate an industry that is also highly regulated by the State.

The Jobs for Pinckney initiated ordinance purports to impose upon the Village of Pinckney a detailed licensing and regulatory scheme, which provisions go far beyond merely allowing a certain number of marijuana establishments. Nevertheless, where no marijuana establishments are permitted to exist, there is no basis for changing the number. Any attempt to do so by initiative is inconsistent with the language and intent of Sec. 6(1) of the MRTMA.

B. The Initiated Ordinance Exceeds the Statutory Scope.

Even if a petition to initiate an ordinance under Sec. 6(1) of the MRTMA were permitted after a municipality had opted out of allowing any marijuana establishments, the Jobs for Pinckney initiated ordinance was overly broad, as it proposed an ordinance that would do far more than simply provide for the number of marijuana establishments within the Village.

The Jobs for Pinckney initiated ordinance, in addition to setting forth the number of marijuana establishments in the Village, also set forth a comprehensive scheme for

regulating such establishments, including license applications, scoring procedures, social equity, community benefits, and numerous other detailed rules, regulations, procedures, and penalties, all of which are the province of the Village Council. However, MCL 333.27956(1) only authorizes a ballot initiative setting the number of marihuana establishment within a municipality. This statutory section does not authorize an initiated ordinance regulating such establishments.

Rather, MCL 333.27956(2) allows a municipality to adopt other ordinances that, among other things, regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories, and MCL 333.27956(3) allows a municipality to adopt an ordinance requiring a marihuana establishment with a physical location within the municipality to obtain a municipal license.

Nowhere in the MRTMA are individuals empowered to initiate a petition that would regulate marihuana establishments, or set standards for municipal licensing of those establishments. Plaintiff argues for an expanded interpretation of Sec. 6(1) of the MRTMA, i.e., to include more than merely setting the number of facilities. But the statutory language is unambiguous in this regard, requiring no judicial construction to justify permitting a ballot initiative for an ordinance setting up a comprehensive regulatory scheme for recreational marihuana.

The clear intent of the statutory language is to allow for an initiated ordinance to provide only for the number of marihuana establishments allowed in the Village. See, *Jobs for Farmington, supra*; *Jobs for Oakland, supra*; and *Jobs for Monroe, supra* (Exhibits F, G and H). This is not a matter of adding language to a statute. Cf. *In re*

Jajuga Estate, 312 Mich App 706, 731; 881 NW2d 487 (2015). Plaintiff's interpretation of MCL 333.27956(1) would actually eliminate the phrase "the number of," and make the statute read, "to provide for marihuana establishments," similar to a municipality's general authorization under the MRTMA to adopt such an ordinance. That is not what the law says, and no reasonable interpretation could reach that result.

C. The Village Council is Authorized to Amend the Initiated Ordinance.

The Village Council is authorized to adopt and amend ordinances, including ordinances pertaining to the licensing and regulation of marihuana establishments. MCL 67.1(z); MCL 333.27956(1) – (4). Plaintiffs argue that the Village Council is constrained by Sec. 6(2) of the MRTMA to adopt ordinances "that are not unreasonably impracticable and do not conflict with this act." The basis for their argument is that they have a statutory right³ under Sec. 6(1) of the MRTMA to enact an ordinance by the initiative process, and thus any amendment of the initiated ordinance following the election was in conflict with the MRTMA.

However, nowhere in the MRTMA or any other law is there any prohibition against the amendment of an initiated ordinance. The constraint in Sec. 6(2) pertains to substantive provisions of an ordinance that might conflict with the substantive licensing and regulatory requirements of the MRTMA or rules promulgated thereunder.⁴

³ Plaintiffs acknowledge that there is no constitutional right under Const 1963, art. 2, sec. 9 to initiate a local ordinance. (Brief, p 12) Thus, their arguments on p 13 analogizing the amendment of a purported initiated ordinance to abuses of the constitutional right of referendum are completely misplaced.

⁴ Plaintiffs argue that the Village cannot limit the number of *each type* of marihuana establishment (Brief pp 15-16), but the Jobs for Pinckney initiated ordinance itself expressly limited the number of establishments by type. (Exhibit B)

Plaintiffs argue that any amendment of an initiated ordinance would render the initiative power “meaningless and nugatory.” (Brief, p 13.) Again, there is nothing in the law to prevent the Village Council from amending an initiated ordinance. Its action in doing so ultimately becomes a political question, i.e., the voters’ recourse is to oust those Council members who act contrary to their will.

Generally, an initiated ordinance has no greater sanctity than legislation adopted by a city council, and may be amended by the city council. See, 6 McQuillin Mun. Corp. § 21:3 (3d ed.):

Where there is no explicit prohibition or limitation on a legislative body's right to amend or repeal laws enacted by voter initiative, some courts have determined that there is an implicit restraint on a legislative amendment, while other courts have permitted legislative amendment without electorate approval.

In some jurisdictions, initiative laws are subject to the same constitutional limitations as are other laws, and may be amended or repealed by the council or similar legislative body of the municipality at will. In the absence of constitutional or statutory limitation, the municipal council of a noncharter city has power to amend or repeal an initiated ordinance theretofore adopted by the electors of the city. (Emphasis added; footnotes omitted.

See, e.g., *Mihocka v Ziegler*, 28 Ohio Misc 105, 1971; 274 NE2d 583 (1971); *Molinari v Bloomberg*, 564 F3d 587 (CA 2, 2009).

The Village Council's ability to repeal or amend an initiated ordinance would apply equally to an ordinance initiated under Sec. 6(1) of MRTMA to “completely prohibit” marihuana establishments. Plaintiffs would likely agree that the Village Council would be authorized under MRTMA to adopt an Ordinance permitting marihuana establishments even if the voters passed an initiative to completely prohibit them – a voter initiated ordinance does not necessarily establish a state of the law which can never be changed.

Again, the Village Council's actions to repeal or amend an initiated ordinance after an election is a political issue.

Regardless, the Jobs for Pinckney initiated ordinance is invalid for the reasons set forth above, and should never have been placed on the ballot. But for procedural missteps, the issue of the proposed ordinance's invalidity would have been directly addressed by the Courts, and disposed of consistent with the decisions made by several panels of the Court of Appeals. (Exhibits F, G, and H.) The Village Council surely has the ability to amend an invalid ordinance. There was no statutory impediment to the Village Council's adoption of Ordinance 152. This Court should issue a declaratory judgment that the Village Council was authorized by law to adopt Ordinance 151, and to amend it by adopting Ordinance 152.

CONCLUSION AND RELIEF

For all of the foregoing reasons, Defendant/Counter-Plaintiff Village of Pinckney respectfully requests that this Honorable Court deny Plaintiffs' Motion for Preliminary Injunction, grant a Declaratory Judgment for the Village of Pinckney as requested in its Counterclaim, and grant the Village of Pinckney such other and further relief as may be required, including dismissal of Plaintiffs' Complaint, and an award of costs and attorney fees incurred.

Respectfully submitted,
COHL, STOKER & TOSKEY, P.C.



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Dated: March 8, 2021

EXHIBIT A

MARIHUANA ESTABLISHMENTS

§ 113.30 PROHIBITION OF MARIHUANA ESTABLISHMENTS.

(A) Pursuant to the Michigan Regulation and Taxation of Marihuana Act, § 6.1, the village elects to prohibit marihuana establishments within its boundaries, including, but not limited, any marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the State of Michigan under the Michigan Regulation and Taxation of Marihuana Act.

(B) Pursuant to the Michigan Medical Marihuana Facilities Licensing Act, § 205(1), being M.C.L.A. § 333.27205(1), the village elects to prohibit medical marihuana facilities within its boundaries, including, but not limited, any medical marihuana grower, medical marihuana processor, medical marihuana provisioning center, medical marihuana transporter, medical marihuana safety compliance facility, or any other type of medical marihuana-related business licensed by the State of Michigan under the Michigan Medical Marihuana Facilities Licensing Act.

(Ord. 145, passed 11-12-2018)

EXHIBIT B

LOCAL PROPOSAL PETITION

I, the Clerk of the Village of Pinckney, do, the undersigned qualified and qualified electors, residents in the Village of Pinckney, in the County of Livingston, the State of Michigan, pursuant to Sec. 6.1, of the Michigan Regulation and Taxation of Marijuana Act, respectively petition for initiation of an ordinance to provide for the number of Marijuana Establishments within the Village, including regulatory and application provisions incidental to a system of safe and legal access to marijuana within the municipality. We respectfully request that the Council of the Village of Pinckney adopt this proposed ordinance, and that if it be so adopted, that it be submitted to a vote of the electors of the Village of Pinckney for the November 3, 2020 General Election.

INITIATED ORDINANCE NUMBER 2020-0001 MARIJUANA ESTABLISHMENTS ALLOWED WITHIN THE VILLAGE OF PINCKNEY

THE VILLAGE OF PINCKNEY ORDAINS;

SECTION 1. PURPOSE

The purpose of this Ordinance is to authorize and regulate within the Village the business operations of persons licensed by the State to operate Marijuana Establishments consistent with the Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, MCL 333.27931 et seq., and to do all of the following: (1) provide access to marijuana within the municipality; (2) ensure the safety of adults twenty-one (21) years of age and older, and the general public; (3) provide for an application fee to apply for a Provisional License for a Marijuana Establishment and a fee for any local approvals granted to be renewed; (4) provide a process to select Local Applicants to receive local approvals for Marijuana Establishments, and to provide for a process for those local approvals to be renewed, or potentially denied or revoked; (5) comply with the Michigan Regulation and Taxation of Marijuana Act in order to protect and enhance the public health, safety, and welfare; (6) address and repair the harm caused to communities disproportionately impacted by the prohibition of marijuana through the promotion of employment and business ownership opportunities within those communities; (7) bring marijuana businesses into the Village that demonstrate commitment to advance the broader interest and goals of the community through high-impact local investment, and that provide employment opportunities to local residents and investors; and (8) to provide for, if enacted by the Village Council, a Community Benefits Program in the Village to benefit individuals disproportionately impacted by Marijuana Prohibition. Nothing contained within this Ordinance, or within any local approval issued by the Village, shall be construed to relieve a person of the fees and obligations imposed under state laws and regulations. Notwithstanding the foregoing, it is not the intent of this Ordinance to diminish, abrogate or restrict the provisions for the medical use of marijuana provided in the Michigan Medical Marijuana Act. Nothing in this Ordinance is intended to grant individuals immunity from the enforcement of federal laws prohibiting marijuana activity. The provisions of this Ordinance are regulatory in nature and not intended to be interpreted as penal laws. The provisions of this Ordinance are severable and self-executing. This Ordinance is hereby declared necessary to preserve the public peace, health, safety and welfare of the People of the Village.

SECTION 2. DEFINITIONS

All definitions provided in the MMTMA are incorporated by reference into this Ordinance, and the term "marijuana" shall be synonymous with the term "marihuana." As used in this Ordinance, the following terms shall be defined as:

"Agency" is defined as the Marijuana Regulatory Agency or any successor agency.

"Application Date" is defined as the date on which the Local Applicant submits its application to the Village for a single License Type at a Business Facility Address or for a License renewal.

"Business Facility Address" means the singular United States postal address for a building structure located atop a Land Parcel, where a Marijuana Establishment is proposed to be located for a License Type listed in an application to the Village. The existing square footage of the building structure at the Business Facility Address shall solely be used for measuring the square footage of the Business Facility Address.

has received a state operating license pursuant to the MMTMA. It shall not be considered a municipal license.

(j) "Clerk" means the Village Clerk of the Village of Pinckney.

(k) "Community Benefits Agreement" means a legally binding commitment from a Local Applicant, which shall also be binding on the Local Applicant's successors or assigns, that states that the Local Applicant will, contingent upon approval of a Provisional License and contingent upon the Local Applicant holding a Village Full License Authorization for a period of at least one year, and contingent upon the Village creating a Community Benefits Program, make an annual payment of ten thousand dollars (\$10,000) to the Community Benefits Program for as long as the Local Applicant, or its successors or assigns, holds ownership of the Village Full License Authorization.

(l) "Council" means the Village Council of the Village of Pinckney.

(m) "Designated Consumption Establishment" is defined as a business licensed by the Agency to permit adults twenty-one (21) years of age and older consume marijuana products at a Business Facility Address.

(n) "Fully Qualified Provisional License Application" is defined as a Provisional License application for which all of the following is true and has been documented in the Local Applicant's application to the Village: (1) The Local Applicant currently holds a state operating license pursuant to the MMTMA or a Microbusiness License Type Local Applicants and Class A Marijuana Grower License Type Local Applicants shall be exempt from this requirement; (2) The stakeholders of the Local Applicant possess at least 10 years of combined business experience, though Microbusiness License Type Local Applicants and Class A Marijuana Grower License Type Local Applicants shall be exempt from this requirement; (3) The Local Applicant has an Occupancy Affidavit with an Occupancy Percentage of zero (0) percent; (4) The Local Applicant has answered yes and provided supporting documentation for every question in the Public Health Plan Checklist category of their application; (5) The Local Applicant has committed in their application to hire at least ten (10) percent of their employees from local residents of the Village; (6) The Local Applicant has committed in their application to hire at least twenty-five (25) percent of their employees consisting of individuals disproportionately impacted by Marijuana Prohibition; (7) The Local Applicant has signed a Community Benefits Agreement as defined in this Ordinance; (8) The Local Applicant has committed to hiring or contractors for work and improvements to its Business Facility Address; (9) The Local Applicant has completed over thirteen (13) of the items listed in Section 5 of this Ordinance that may be included in a Provisional License application.

(o) "Individual Disproportionately Impacted by Marijuana Prohibition" defined as an individual who meets at least one of the three criteria listed in the Marijuana Regulatory Agency's Social Equity Program, which includes: individuals who have resided in a disproportionately impacted community, as defined by the Agency, for at least five (5) calendar years prior to the Application Date; individuals with a prior marijuana related conviction; and individuals with at least two (2) calendar years of caregiver experience under the State of Michigan's medical marijuana program.

(p) "Land Parcel" or "Parcel" shall be defined as a land parcel, with associated tax identification number, allocated by the appropriate governmental body, whose official records are held by the Clerk, the Registrar of Deeds, or any appropriate governmental body, for the purposes of tracking the use of land within the Village.

(q) "Local Applicant" is defined as an individual, entity, person, or person who submits an application for a License Type to the Village.

(r) "License Type" is defined as a single category of a license a Local Applicant can apply for, such as a microbusiness license, a marijuana retail license, a cultivation or grower license, or other license that a Local Applicant can apply for through the processes set forth in this Ordinance.

(s) "MMTMA" is defined as the Michigan Medical Marijuana Licensing Act, 2018 PA 281, MCL 333.27401 et seq.

(t) "MMMA" is defined as the Michigan Medical Marijuana Act, 2008 IL 1, MCL 333.26421 et seq.

(u) "MMTMA" is defined as the Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, MCL 333.27931 et seq.

(v) "Occupancy Percentage" or "Occupancy Percentage" is defined as the ratio of the number of employees who are local residents of the Village to the total number of employees of the Local Applicant.

(2) The determination of "Percentage Occupancy" or "Percentage Occupied" shall require an Occupancy Affidavit, and if possible, provide supporting documentation attesting to the occupancy of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the Application Date.

(3) For the purposes of issuing a Provisional License, the Village shall verify the Percentage Occupancy of the property through an Occupancy Affidavit and, if possible, other supporting documentation which may include, but not be limited to, lease documents, purchase agreements, certificates of occupancy, utility bills, and other documentation that can show the occupancy level over the time period.

(4) Notwithstanding the requirements of this section, if a Local Applicant submits an Occupancy Affidavit that is dated no earlier than six (6) months prior to the Application Date attesting to the Occupancy Percentage of the Business Facility Address, and if the Local Applicant submits an additional notarized affidavit within ten (10) days of the Application Date attesting that there has been no change in the Percentage Occupancy since the date the Occupancy Affidavit was first signed, the Local Applicant will be deemed to meet the requirements of the "calendar year immediately prior to the Application Date" Percentage Occupancy definition.

(j) "Occupancy Affidavit" is defined as a sworn affidavit from the owner of a Land Parcel or the authorized representative designated by the owner of the Land Parcel for this purpose, attesting to the Occupancy Percentage of any buildings, structures, or units contained within the Land Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the Application Date, subject to the requirements of Section 2 (j) of this Ordinance.

(k) "Provisional License" means a provisional local authorization issued by a Village for a Local Applicant to, contingent upon approval of a state operating license from the Agency, operate a Marijuana Establishment at a Business Facility Address, provided that the temporary local authorization shall become a Village Full License Authorization upon the Local Applicant receiving a state operating license pursuant to the METMA. A Local Applicant shall be prohibited from operating a Marijuana Establishment without a state license issued by the Agency.

(l) "Stakeholder" means the following for each type of Local Applicant:

- (1) For an individual or sole proprietorship: the proprietor.
- (2) For a partnership and limited liability partnership: all partners.
- (3) 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 ten percent (10%) or less and who does not exercise control over or participate in the management of the partnership.
- (4) For a limited liability company: all members and managers.
- (5) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and all stockholders, not including those holding a direct or indirect ownership interest of ten percent (10%) or less.
- (6) For a publicly held corporation: all corporate officers or persons with equivalent titles, all directors and all stockholders, not including those holding a direct or indirect ownership interest of ten percent (10%) or less.
- (7) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the Articles of Incorporation or their bylaws.

(m) "Stand Alone Business Facility Address" is defined as a Business Facility Address that does not have a Business Facility Adjacent Address and where the proposed Business Facility Address is physically separated from areas where smoking or the use of cannabis is prohibited, not including the Business Facility Address in question, and where smoke or the smell of cannabis does not intrude into nonsmoking areas or buildings that are not part of the Business Facility Address. This shall be demonstrated by a site plan or preliminary sketch submitted by the Local Applicant in Section 5 (13).

(n) "Vacant Land Parcel" is defined as a Land Parcel that does not contain a structure that has previously received a certificate of occupancy from the Village or it could receive a certificate of occupancy from the Village.

(3) The words or phrases "marijuana," "marijuana," "canna," "dank," "pot," "kush," "weed," "THC," or "Mary Jane."

SECTION 4. AUTHORIZATION OF MARIJUANA ESTABLISHMENTS

(a) Except as provided herein and pursuant to the METMA, the Village shall authorize the following number of state licensed Marijuana Establishments operate within its boundaries:

- (1) Marijuana Safety Compliance Facility - one (1) license
- (2) Marijuana Social Transporter - one (1) license
- (3) Marijuana Microbusiness - minimum of one (1) license
- (4) Marijuana Retailer - minimum of two (2) licenses, maximum of two (2) licenses allowed
- (5) Marijuana Processor - one (1) license
- (6) Class A Marijuana Grower - minimum of one (1) license
- (7) Class B Marijuana Grower - one (1) license
- (8) Class C Marijuana Grower - one (1) license
- (9) Designated Consumption Establishment - a minimum of one (1) license allowed

(b) The Village shall not enact any Unreasonably Inapplicable restriction on the commercial sale and/or serving of food and beverages at a Designated Consumption Establishment.

(c) There shall be no more than a total of two (2) unique Business Facility Addresses at which a Marijuana Retailer or a Designated Consumption Establishment may operate, provided that more than one of these License Types may be located at the same Business Facility Address, and that the co-location of Marijuana Retailer and a Designated Consumption Establishment at a Business Facility Address shall not count towards more than one (1) of the total total of two (2) unique Business Facility Addresses allowed to operate within the Village these License Types.

(d) Nothing in this Ordinance shall be read to prohibit any combination of Marijuana Grower, a Marijuana Processor, a Designated Consumption Establishment, or a Marijuana Retailer from operating at a single location or co-operating at the same location as a Marijuana Facility. Nothing in this Ordinance shall be read to prohibit a Designated Consumption Establishment from operating at the same Business Facility Address as a Marijuana Retailer. Notwithstanding anything else in this Ordinance, a Marijuana Retailer may not be located at same Business Facility Address as another Marijuana Retailer.

SECTION 5. PROVISIONAL LICENSE APPLICATIONS

The Clerk shall develop an application process to apply for Provisional License and the Clerk shall establish and make available Provisional License application forms, which shall require a sworn oath from an authorized representative of the Local Applicant that all information contained within the application is true to best of their knowledge and, in addition to this sworn oath, shall require no more than the following information:

- (1) The full name, date of birth, physical address, email address and telephone number of the Local Applicant in the case of an individual or, in the case of an entity, all Stakeholders thereof.
- (2) If the Local Applicant is an entity, the entity's articles of incorporation or organizational documents.
- (3) If the Local Applicant is an entity, the entity's employer identification number.
- (4) An affidavit that neither the Local Applicant nor a Stakeholder of the Local Applicant is in default to the Village.
- (5) The Business Facility Address for which the Local Applicant is applying for a License Type.

and all municipal permits or approvals needed for the Business Facility Address pursuant to the terms of this Ordinance.

(10) If applicable, a Community Benefits Agreement as defined in Section 2(f) of this Ordinance.

(11) A social equity plan that details how the Local Applicant plans on furthering the social equity objectives of this Ordinance in terms of promoting business and employment opportunities for communities that have been disproportionately impacted by marijuana prohibition, and its commitment to hiring individuals disproportionately impacted by Marijuana Prohibition. This social equity plan and the commitments that the Local Applicant makes shall be used for the purposes of scoring a Provisional License Application in Section 7 of this Ordinance and for any renewals or transfers as permitted by this Ordinance.

(12) Documentation of the Local Applicant's Stakeholders of being Individuals Disproportionately Impacted by Marijuana Prohibition, if applicable, along with their respective ownership percentages. To verify proof of residency in a disproportionately impacted community as defined by the Agency, W-2 forms, mortgages, deeds, property tax documents, lease or rental agreements, insurance documents, voter registration, or other valid documentation may be used. To verify a marijuana-related conviction, a copy of judgment of sentence or other official documentation is required. To verify two (2) calendar years of caregiver experience, the Local Applicant must give authorization for the Agency to release relevant information under the MMMA or provide the appropriate supporting documentation.

(13) A site plan or preliminary sketch of the proposed facility, detailing the location of basic security features, entrances and exits, dimensions, and proposed layout of the Business Facility Address. This may include the square footage of the Business Facility Address and the location of any shared walls, bathrooms, doors, air ventilation systems, or facilities with non-marijuana businesses and the location of any Business Facility Adjacent Addresses. The applicant may note if they are applying to be a vertically integrated facility by noting other License Types that they are applying for at the Business Facility Address.

(14) If applicable, documentation that the Local Applicant has received a state operating license pursuant to the MMFLA or MRTMA or that the Local Applicant has received MMFLA or MRTMA pre-qualification approval from the Agency.

(15) Documentation of the business operating, managing, or ownership experience of each of the Stakeholders of the Local Applicant.

(16) The completion of a "Security Plan Checklist" that contains answers to the following questions along with supporting documentation: (i) Does the Local Applicant have a security plan to prevent minors from obtaining access to marijuana at the Business Facility Address? If so, provide supporting documentation; (ii) Does the Local Applicant have a security plan designed to deter potential robbery and theft from the Business Facility Address? If so, provide supporting documentation; (iii) Does the Business Facility Address of the Local Applicant meet the definition of a Stand Alone Business Facility Address and if so, does its security plan include the installation of physical security barriers to create a three hundred and sixty (360) degree perimeter surrounding its Stand Alone Business Facility Address for the purpose of deterring theft and crime? If so, provide supporting documentation.

(17) The completion of a "Public Health Plan Checklist" that contains answers to the following questions along with supporting documentation: (i) Will the Local Applicant require that the employees at its Business Facility Address wear Personal Protective Equipment, including gloves, when handling marijuana and marijuana products? If so, provide supporting documentation; (ii) Does the Local Applicant have a public health plan to educate its customers about the potential harmful side-effects of using marijuana in combination with other substances and to warn its customers about potential negative health effects of individuals with specific health conditions from using marijuana? If so, provide supporting documentation; (iii) Does the Business Facility Address of the Local Applicant contain an existing ventilation system that is not also utilized by a non-marijuana establishment or other non-marijuana business and where the ventilation system draws air from the Marijuana Establishment to the outside of the building through a filtration system sufficient to remove visible smoke if applicable, consistent with all applicable building codes

SECTION 7. APPLICATION REVIEW

(a) The Clerk shall establish a process to receive, process, and review applications in order to determine that all applicable required content listed in Section 5 of this Ordinance has been included and that the relevant application has been paid, but the process may not conflict with the provisions of this Ordinance. The Clerk may only refuse to process an application for failure to pay the initial application fee.

(b) Except as provided by law, all materials submitted to the Village as part of an application shall be exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.233 et seq.

(c) The Clerk may set the opening of the initial application window for Marijuana Establishments no later than two weeks after the effective date of this Ordinance. But if the Clerk fails to set the initial application window within ten days after the effective date of this Ordinance, the initial application window for Marijuana Establishments shall automatically open on the seventh (7th) day after the effective date of this Ordinance. If the Clerk fails to make an application form available for Marijuana Establishments, Local Applicants may prepare and file their own application which must include information for at least twelve (12) of items listed in Section 5 of this Ordinance and be titled "Village of Plover Marijuana Establishment Business Application" and be filed with the Clerk. The initial application window for Marijuana Establishments shall close thirty (30) days after it opens. One (1) calendar year after Provisional Licenses for Marijuana Establishments have been awarded to Local Applicants who apply within the initial application window for Marijuana Establishments, the Clerk may set a subsequent application window.

(d) Overall scoring and ranking shall be conducted and applied by the Clerk on the basis of assigned points from zero (0) points to one hundred (100) points with the lowest possible final score being zero (0) points and the highest possible total score being one hundred (100) points. In the event of an overall scoring tie, which causes there to be two (2) or more Local Applicants who achieve equal scores, the scoring and Local Applicants will be entered into a random draw to determine their relative rankings under this scoring procedure.

(e) After the closing of the initial application window, the Clerk shall score and rank applications for Marijuana Establishments by using the following scoring criteria which can be verified by category for applications submitted during the initial application window for Marijuana Establishments, Marijuana Microbusiness and Class A Marijuana Grower License Type and Designated Consumption Establishment applications shall be scored using a separate scoring procedure, as set forth in the section specifically designed for scoring set License Types below.

(f) MARIJUANA CLASS B GROWER, CLASS C GROWER, PROCESSOR, RETAILER, SAFETY COMPLIANCE FACILITY, AND SECURE TRANSPORTER ESTABLISHMENT LICENSE TYPE SCORING PROCEDURE:

(1) LOCAL APPLICANT VETTING: This category shall refer to the degree to which the Local Applicant has been found qualified to score by the Agency. A maximum of fifty (50) points shall be awarded for this category. If the Local Applicant possesses a State operating license pursuant to the MMFLA or the MRTMA, fifty (50) points shall be awarded for this category; or, if the Local Applicant possesses a state pre-qualification approval from the Agency pursuant to the MMFLA or the MRTMA, forty (40) points shall be awarded for this category. A Local Applicant can only earn points for either a state operating license or a state pre-qualification letter in this category.

(2) COMPLETENESS: This category shall refer to the information which may be included in an application under the provisions of Section 5 of this Ordinance. The maximum number of scoring points in this category shall be ten (10) points. Points in this category shall only be determined based on the completeness of an application. Completeness shall be defined as the number of items in Section 5 of this Ordinance for which information has been submitted. If the application contains information for less than twelve (12) of the items listed in Section 5 of this Ordinance, zero (0) points shall be awarded for this category. If the application contains twelve (12) or thirteen (13) of the items listed in Section 5 of this Ordinance, seven (7) points shall be awarded for this category. If the application contains

Security Plan Checklist questions listed in Section 5(16) of this Ordinance, one (1) point shall be awarded for this category; or, if the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Security Plan Checklist questions listed in Section 5(16) of this Ordinance, three (3) points shall be awarded for this category. If the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and provided the appropriate supporting documentation to at least two (2) of the Public Health Plan Checklist questions listed in Section 5(17) of this Ordinance, two (2) additional points shall be awarded for this category; or, if the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Public Health Plan Checklist questions listed in Section 5(17) of this Ordinance, four (4) additional points shall be awarded for this category.

(5) **STRUCTURAL SUITABILITY:** This category allocates points based on whether the Business Facility Address is likely to be in compliance with the MRTMA, the time it will take for the Business Facility Address to come into compliance with the MRTMA, and the safety risk posed by building structures that are not well suited to operate as Marijuana Establishments. A maximum of ten (10) points shall be awarded for this category. Application information in Section 5(13) shall be used for the purposes of allocating points in this category. If the application is for a Marijuana Retailer License Type and the Business Facility Address contains a minimum of one thousand (1,000) square feet, ten (10) points shall be awarded for this category. If the application is for a Marijuana Grower License Type and the Business Facility Address contains a minimum of two thousand five hundred (2,500) square feet, ten (10) points shall be awarded for this category.

(6) **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance the broader interest and goals of the community through investment in the people of the community and in the community's tax base. This is demonstrated through the following criteria: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to its Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, or abandoned property in the community. The maximum number of scoring points in this category shall be seven (7) points. Points in this category shall be awarded as follows: If the Local Applicant, as part of the Commitment to Community category of its application, commits to hiring a minimum of ten (10) percent of its employees from local residents of the Village, one (1) point shall be awarded for this category. If the Local Applicant, as part of the Commitment to Community category of its application, commits to hiring local contractors for work and improvements to its Business Facility Address, one (1) additional point shall be awarded for this category. Points for long-term community investment and re-development shall be awarded based on the Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero percent, the Local Applicant shall be awarded two (2) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded three (3) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded two (2) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially viable building structures or is a Vacant Land Parcel, the Local Applicant shall be awarded zero (0) additional points for this category.

(7) **SOCIAL EQUITY:** This category allocates points based on whether the Local Applicant has made a commitment to hire individuals Disproportionately Impacted by Marijuana Prohibition. A maximum of six (6) points shall be awarded for this category. If the Local Applicant commits to hire a minimum of twenty-five (25) percent of its workforce consisting of individuals Disproportionately Impacted by Marijuana Prohibition, three (3) points shall be awarded for this category; or, if the

category. If the application contains over thirteen (13) of the items listed in Section 5 of this Ordinance, twenty (20) points shall be awarded for this category. Completeness in this category shall refer to whether or not information for a Section 5 item has been provided, and is not an assessment of the subjective quality/sufficiency of said information.

(2) **SECURITY AND PUBLIC HEALTH:** This category allocates points based on whether the Business Facility Address of a Local Applicant has features that will increase the security of the Marijuana Establishment and reduce any public health risks that may result from the Marijuana Establishment. A maximum of twenty (20) points shall be awarded for this category. If the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two of the Security Plan Checklist questions listed in Section 5(16) of this Ordinance, ten (10) points shall be awarded for this category; or, if the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two (2) of the Public Health Plan Checklist questions listed in Section 5(17) of this Ordinance, five (5) additional points shall be awarded for this category; or, if the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Public Health Plan Checklist questions listed in Section 5(17) of this Ordinance, ten (10) additional points shall be awarded for this category.

(3) **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance the broader interest and goals of the community through investment in people of the community and in the community's tax base. This is demonstrated through the following: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to its Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, or abandoned property in the community. The maximum number of scoring points in this category shall be twenty (20) points. Points in this category shall only be awarded as follows: If the Local Applicant, as part of the Commitment to Community category of its application, commits to hire at least ten (10) percent of its employees from local residents of the Village, two (2) points shall be awarded for this category. If the Local Applicant, as part of the Commitment to Community category of its application, commits to hiring local contractors for work and improvements to its Business Facility Address, three (3) additional points shall be awarded for this category. Points for long-term community investment and re-development shall be awarded based on the Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero (0) percent, the Local Applicant shall be awarded fifteen (15) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded ten (10) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded five (5) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially viable building structures or is a Vacant Land Parcel, the Local Applicant shall be awarded zero (0) additional points for this category.

(4) **STRUCTURAL SUITABILITY:** This category allocates points based on whether the Business Facility Address is likely to be in compliance with the MRTMA, the time it will take for the Business Facility Address to come into compliance with the MRTMA, and safety risk posed by building structures that are not well suited to operate as Marijuana Establishments. A maximum of ten (10) points shall be awarded for this category. Application information in Section 5(13) shall be used for the purposes of allocating points in this category. If the application is for a Marijuana Microbusiness and the Business Facility Address contains

(6) **SOCIAL EQUITY BACKGROUND:** This category allocates points based on whether the Stakeholders of the Local Applicant consist of individuals Disproportionately Impacted by Marijuana Prohibition. A maximum of twenty (20) points shall be awarded for this category. If at least one (1) Stakeholder with at least a twenty-five (25) percent ownership of the Local Applicant entity has resided in a disproportionately impacted community, as defined by the Agency, for at least five (5) calendar years prior to the Application Date, three (3) points shall be awarded for this category. If at least one (1) Stakeholder with at least a twenty-five (25) percent ownership of the Local Applicant entity consists of an individual with a prior marijuana related conviction, three (3) additional points shall be awarded for this category. If at least one Stakeholder with at least a twenty-five (25) percent ownership of the Local Applicant entity consists of an individual with at least two (2) calendar years of caregiver experience under the State of Michigan's medical marijuana program, three (3) additional points shall be awarded for this category. If over fifty (50) percent of the Local Applicant entity is owned by Stakeholder(s) who are Individuals Disproportionately Impacted by Marijuana Prohibition as defined by this Ordinance, three (3) additional points shall be awarded for this category. If the Local Applicant meets the definition of a Worker-Owned Cooperative as defined by this Ordinance, eight (8) additional points shall be awarded for this category.

1) MARIJUANA ESTABLISHMENT SCORING PROCEDURE FOR DESIGNATED CONSUMPTION ESTABLISHMENTS:

(1) **LOCAL APPLICANT VETTING:** This category shall refer to the degree to which the Local Applicant has been found qualified for licensure by the Agency. A maximum of fifty (50) points shall be awarded for this category. If the Local Applicant possesses a State operating license pursuant to the MMFLA or the MRTMA, fifty (50) points shall be awarded for this category; or, if the Local Applicant possesses a state prequalification approval from the Agency pursuant to the MMFLA or the MRTMA, forty (40) points shall be awarded for this category. A Local Applicant can only earn points for either a state operating license or a state pre-qualification letter in this category.

(2) **COMPLETENESS:** This category shall refer to the information which may be included in an application under the provisions of Section 5 of this Ordinance. The maximum number of scoring points in this category shall be ten (10) points. Points in this category shall only be determined based on the completeness of the application. Completeness shall be defined as the number of items in Section 5 of this Ordinance for which information has been submitted. If the application contains less than twelve (12) of the items listed in Section 5 of this Ordinance, zero (0) points shall be awarded for this category. If the application contains twelve (12) to thirteen (13) of the items listed in Section 5 of this Ordinance, seven (7) points shall be awarded for this category. If the application contains over thirteen (13) of the items listed in Section 5 of this Ordinance, ten (10) points shall be awarded for this category. Completeness in this category shall only refer to whether or not information for a Section 5 item has been provided, and is not an assessment of the subjective quality or sufficiency of said information.

(3) **BUSINESS EXPERIENCE:** This category shall refer to the years of business operating experience of the Stakeholders of the Local Applicant in operating either marijuana or non-marijuana businesses. A maximum of ten (10) points shall be awarded for this category, and one (1) point shall be awarded for each total year of combined business operating experience by the Stakeholders of the Local Applicant as documented in Section 5(15) of this Ordinance.

(4) **SECURITY AND PUBLIC HEALTH:** This category allocates points based on whether the Business Facility Address of a Local Applicant has features that will increase the security of the Marijuana Establishment and reduce any public health risks that may result from the Marijuana Establishment. A maximum of seven (7) points shall be awarded for this category. If the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two (2) of the Security Plan Checklist questions listed in Section 5(16) of this Ordinance, one (1) point shall be awarded for this category; or, if the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting

commercial kitchen, five (5) points shall be awarded for this category. If the Business Facility Address contains a minimum of five thousand (5,000) square feet, five (5) additional points shall be awarded for this category.

(5) **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance broader interest and goals of the community through investment in people of the community and in the community's tax base. This is demonstrated through the following criteria: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to the Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, abandoned property in the community. The maximum number of scoring points in this category shall be seven (7) points. Points in this category shall be awarded as follows: If the Local Applicant, as part of the Commitment to Community category in its application, commits to hire a minimum of ten (10) percent of its employees from local residents of the Village, one (1) point shall be awarded for this category. If the Local Applicant, as part of the Commitment to Community category of its application, commits to hiring local contractors for work and improvements to the Business Facility Address, one (1) additional point shall be awarded for this category. Points for long-term commitment investment and redevelopment shall be awarded based on Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero percent, the Local Applicant shall be awarded five (5) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded three (3) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded two (2) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially viable building structure or is a Vacant Land Parcel, the Local Applicant shall be awarded zero additional points for this category.

(7) **SOCIAL EQUITY:** This category allocates points based on whether the Local Applicant has made a commitment to hire individuals Disproportionately Impacted by Marijuana Prohibition. A maximum of (6) points shall be awarded for this category. If the Local Applicant commits to hire a minimum of twenty-five (25) percent of its workforce consisting of individuals Disproportionately Impacted by Marijuana Prohibition, three (3) points shall be awarded for this category. If the Local Applicant commits to hiring a minimum of ten (10) percent of its workforce consisting of individuals Disproportionately Impacted by Marijuana Prohibition, one (1) point shall be awarded for this category. If the Local Applicant includes a Community Benefits Agreement in its application that meets the requirements of Section 5(10) of this Ordinance, three (3) additional points shall be awarded for this category.

(f) At the closing of the first thirty (30) day initial application window, Clark shall process and score applications for Marijuana Establishment License Types, starting with Marijuana Designated Consumption Establishments, which shall be awarded Provisional Licenses for Marijuana Establishments first, then Marijuana Retailers, which shall be awarded Provisional Licenses for Marijuana Establishments second, then Marijuana Microbusinesses, which shall be awarded Provisional Licenses for Marijuana Establishments third, and the remainder of available Marijuana Establishment License Types shall be awarded in order of highest scoring Local Applicant.

(g) If, at any time after Provisional Licenses for Designated Consumption Establishments have been awarded, pursuant to the limitations of Section 4(c) of this Ordinance, there are no Business Facility Address locations available to Marijuana Retailer for a Business Facility Address that does not already have a license and will not receive a Provisional License or a Village Full License Authorization to Designated Consumption Establishment at the Business Facility Address, the Clark shall award Provisional Licenses for Marijuana Retailers only for those Business Facility Addresses that already have received or will receive Provisional License or Village Full License Authorizations for Designated Consumption Establishments in order of the highest scoring Local Applicant.

terate pursuant to a state operating license have been met, this number of Fully Qualified Provisional License Applications shall control the number of Marijuana establishments allowed if the number is greater than the number set in Section 4 of this Ordinance.

If a Local Applicant is granted a Provisional License for a Fully Qualified Provisional License Application through a writ of mandamus to the Village or by compelling the Village to act through a court order because the Village has failed to award three (3) Provisional Licenses for Marijuana Retailers, Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the close of the initial application window, such a Local Applicant shall not be required to pay more than a maximum annual amount of five-hundred dollars (\$500) for the next ten (10) calendar years for its Village Full License Authorization annual renewal fee.

A Provisional License may be used to satisfy the licensing requirements of a Local Applicant going through the Agency's licensing process for a Marijuana establishment. A Provisional License shall automatically become a Village Full License Authorization when the Agency issues a license to the Marijuana establishment at the Business Facility Address.

SECTION 8. LICENSE REQUIREMENTS

A Village Full License Authorization under this Ordinance shall be subject to the following conditions:

- (1) Compliance with the requirements of this Ordinance
- (2) Compliance with the provisions of the MRTMA and any rules promulgated thereunder;
- (3) Marijuana Establishments shall only operate between the hours of 9:00 AM and 9:00 PM daily. Notwithstanding this requirement, grower or cultivation licensees may operate 24 hours per day, Marijuana Microbusinesses may operate from 7:00 AM until 12:00 AM, Designated Consumption Establishments may operate from 9:00 AM until 2:00 AM, and a Marijuana Retailer that is co-located with a Designated Consumption Establishment may operate from 9:00 AM until 12:00 AM.

SECTION 9. LICENSES GENERALLY

A Village Full License Authorization that is issued under this Ordinance shall be posted at all times inside the Marijuana Establishment in a conspicuous location near the entrance.

Except as provided in this Ordinance, the term of a Village Full License Authorization shall be for one (1) calendar year subject to renewal by the Clerk upon continued compliance with this Ordinance.

Licensees or Provisional License holders may transfer a Village Full License Authorization or Provisional License issued under this Ordinance to a location at a different Business Facility Address upon receiving written approval from the Clerk and pursuant to any applicable requirements under the MRTMA, and any rules promulgated by the Agency, in order to request Village approval to transfer a Village Full License Authorization or Provisional License to a new Business Facility Address, the licensee or Provisional License holder must make a written request to the Clerk, indicating the current location of the Marijuana establishment and the proposed new Business Facility Address. Notwithstanding this section, a Microbusiness license may not be transferred to any other Business Facility Address within the Village.

Licensees or Provisional License holders may transfer a Village Full License Authorization or Provisional License issued under this Ordinance to a different individual or entity, and the licensee or Provisional License holder shall notify the Clerk of the transfer. The transfer must comply with the MRTMA, and any applicable rules promulgated thereunder, and shall not require approval by the Agency. The Village shall be prohibited from interfering with a Village Full License Authorization or Provisional License transfer provided that the new Local Applicant or individual owner must notify the Village of the transfer by filing an application with the Clerk upon a form provided by the Village or, if such a form is unavailable, shall complete the information required in Section 5 of this Ordinance for the transferred Marijuana Establishment Provisional License and file such information with the Clerk. The Clerk shall grant the new licensee or Provisional License holder or Village Full License Authorization holder/owner the same rights as the previous licensee or Village Full License Authorization owner or

Applicant that does not have a Social Equity application category score of equal or greater than the license holder that is transferring the Provisional License or Village Full License Authorization.

Notwithstanding the requirements of this Ordinance, the provisions of this Ordinance dependent upon Occupancy Percentage shall not apply to a renewal applications or to any transfer applications for a license or Provisional License or Village Full License Authorization.

SECTION 10. RENEWALS

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

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 existing license. Licensees shall be renewed annually. A Provisional License shall automatically be renewed for one (1) calendar year by a Local Applicant upon paying a five thousand dollar (\$5,000) annual renewal fee provided that it adheres to the requirements in Section 12 of this Ordinance. Notwithstanding the requirements of Section 6 of this Ordinance, there is an exception to the five thousand dollar (\$5,000) annual renewal fee for any Local Applicant that is granted a Provisional License for a Fully Qualified Provisional License Application by order of a court because the Village has failed to award three (3) Provisional Licenses for Marijuana Retailers, Marijuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the close of the initial application window, or for a Local Applicant that is granted the ability to operate by right by a Court order because the Village fails to award three (3) Provisional Licenses for Marijuana Retailers, Marijuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the close of the initial application window. Such a Local Applicant shall not be required to pay an annual licensing or Village Full License Authorization renewal fee exceeding the total annual amount of five-hundred dollars (\$500) for the next ten (10) calendar years of the Village Full License Authorization annual renewal fee for any License Type at any approved Business Facility Address within the Village.

An application for a Provisional License renewal or a Village Full License Authorization renewal required by this Ordinance shall be made and oath on forms provided by the Clerk. This renewal form shall be developed and made available by the Clerk.

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).

A renewal shall be deemed approved if the Village has not issued formal notice of denial within sixty (60) days of the renewal date.

After a Microbusiness License holder has been operating for six (6) months at a Business Facility Address, one or more different Local Applicant(s) may request and shall be approved by the Village for an additional Microbusiness Provisional License(s) at a different Business Facility Address on the same parcel as the original Business Facility Address which has been operating for at least six (6) months. This provision shall control the number of Marijuana Microbusiness Establishments authorized in Section 4 of this Ordinance.

SECTION 11. LICENSE REVOCATION OR SUSPENSION

Each Marijuana Establishment within the Village for which a Village Full License Authorization is granted shall be operated and maintained in accordance with applicable laws, rules, and regulations in the Village and State. Upon any material violation of this Ordinance that a Local Applicant has failed to remedy after being provided with sufficient time to make the correction, the Clerk may, after a notice and hearing, revoke or suspend such license as hereinafter provided.

SECTION 12. CRITERIA FOR NONRENEWAL, SUSPENSION, REVOCATION OF LICENSE

In addition to any other reasons set forth in this Ordinance, 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 Ordinance that the licensee holder has failed to remedy after being provided with sufficient time to make the correction. Failure to meet the requirements in Section 12 (c) of this Ordinance shall be considered a material violation of this Ordinance.

within 14 days after notice of the violation has been mailed to the Local Applicant or licensee's last known address on the records of the Clerk, a written statement setting forth fully the grounds for the appeal. The Clerk shall review the report and recommendation of the hearing officer and make a decision on the matter. The Clerk's decision may be further appealed to the Village Council if applied for in writing to the Council no later than thirty (30) days after the Clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the Council pursuant to the requirements of this Ordinance. Any decision by the Council on an appeal shall be subject to all remedies available to the Local Applicant under the laws of the State of Michigan.

SECTION 13. COMMUNITY BENEFITS PROGRAM

The Village may establish a Community Benefits Program for the purpose of economic development within the Village and to assist individuals disproportionately impacted by Marijuana Prohibition in the creation of Worker-Owned Cooperatives, gaining employment in the marijuana industry within the Village, and starting licensed marijuana businesses in the Village, though not every one of these goals need be accomplished simultaneously through the actions of the Community Benefits Program. This program, if established by the Village, shall be subject to rules developed by the Village and shall be subject to the following requirements:

1. All funds contributed pursuant to Community Benefits Agreements from marijuana Establishments in the Village shall go to a registered 501(c)(3) nonprofit organization designated by the Village, which shall work to effectuate the goals of the program on behalf of the Village and provide an annual report to the Village on its activities.

2. The Village shall develop an application process for selecting a 501(c)(3) nonprofit organization to manage the Community Benefits Program. Criteria for the 501(c)(3) nonprofit organization shall include, but shall not be limited to, organizations that have at least five (5) years of experience working to develop Worker-Owned Cooperatives, and the nonprofit shall have at least one member of its staff or its board of directors with at least two years of experience working with the licensed marijuana industry in Michigan, which may include legal or other municipal government experience with the licensed cannabis industry in Michigan.

The nonprofit selected by the Village shall not be a religious organization, and shall not have members of its board of directors or staff who are relatives or family members of Village employees or staff or anyone receiving compensation in any capacity from the Village. The nonprofit selected by the Village shall not have any members of its board of directors hold officer positions within the Village or its on the Village Council. No employee, member of the Village Council, or family member or relative of any Village employee or member of the Village Council shall receive any direct or indirect payment from the nonprofit. Nonprofits applying to be considered to manage the Community Benefits Program shall disclose all members of their board of directors and staff and the Village shall confirm that the nonprofit is in compliance with these requirements.

The nonprofit selected by the Village shall use funds contributed pursuant to Community Benefits Agreements in the Village to assist individuals disproportionately impacted by Marijuana Prohibition in starting Worker-Owned Cooperatives within the Village, gaining employment in the marijuana industry in the Village, and/or to start marijuana businesses within the Village.

No more than twenty (20) percent of funds the nonprofit receives from Community Benefits Agreements in the Village may be used for administrative costs by the nonprofit. The remaining funds shall be allocated through decision-making in order to achieve the goals of the Community Benefits Program.

The Village may set up additional procedures, rules, or regulations that it deems necessary to implement the Community Benefits Program.

SECTION 14. PENALTY

A person or entity who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine of no more than five hundred (\$500.00) dollars.

Any ordinances or parts of ordinances that conflict with this Ordinance shall be repealed so as to give this ordinance full force and effect, and any other parts of ordinances or Village regulations or Village Resolutions that conflict with this Ordinance are inapplicable to conduct authorized under this Ordinance.

This Ordinance shall become effective immediately upon voter approval.

EXHIBIT C

ORDINANCE NO. 151

**ORDINANCE TO INCORPORATE AN PROVISIONS APPROVED BY THE ELECTORATE
INTO THE PINCKNEY CODE OF ORDINANCES BY AMENDING
TITLE XI, BUSINESS REGULATIONS,
CHAPTER 113, MISCELLANEOUS BUSINESSES REQUIRING A LICENSE**

The Village of Pinckney ordains:

Section 1. Title XI, *Business Regulations*, Chapter 113, *Miscellaneous Businesses Requiring a License*, of the Code of Ordinances, Village of Pinckney, is hereby amended to revise § 113.30 and to add a new §§ 113.31 - 113.44, to read as follows:

§ 113.30 PURPOSE.

The purpose of this Ordinance is to authorize and regulate within the Village the business operations of persons licensed by the State to operate Marihuana Establishments consistent with the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 et seq., and to do all of the following: (1) provide adults twenty-one (21) years of age and older safe access to marihuana; (2) ensure the safety of adults twenty-one (21) years of age and older, and the general public; (3) provide for an application fee to apply for a Provisional License for a Marihuana Establishment and a fee for any local approvals granted to be renewed; (4) provide for a process to select Local Applicants to receive local approvals for Marihuana Establishments, and to provide for a process for those local approvals to be renewed, or potentially denied or revoked; (5) comply with the Michigan Regulation and Taxation of Marihuana Act in order to protect and enhance the public health, safety, and welfare; (6) address and repair the harm caused to communities disproportionately impacted by the prohibition of marihuana through the promotion of employment and business ownership opportunities within these communities; (7) to bring marihuana businesses into the Village that demonstrate commitment to advance the broader interest and goals of the community through high-impact local investment, and that provide employment opportunities to local residents and contractors; and (8) to provide for, if enacted by the Village Council, a Community Benefits Program in the Village to benefit Individuals Disproportionately Impacted by Marihuana Prohibition. Nothing contained within this Ordinance, or within any local approval issued by the Village, shall be Construed to relieve a person of the duties and obligations imposed under state laws and regulations. Notwithstanding the foregoing, 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. The provisions of this Ordinance are severable and self-executing. This Ordinance is hereby declared necessary to preserve the public peace, health, safety and welfare of the People of the Village.

§ 113.31 DEFINITIONS.

- A. All definitions provided in the MRTMA are incorporated by reference into this Ordinance, and the term "marijuana" shall be synonymous with the term "marihuana." As used in this Ordinance, the following terms shall be defined as follows:
- B. "Agency" is defined as the Marijuana Regulatory Agency or any successor agency.

- C. "Application Date" is defined as the date on which the Local Applicant submits its application to the Village for a single License Type at a Business Facility Address or for a License renewal.
- D. "Business Facility Address" means the singular United States postal address, for a building structure located atop a Land Parcel, where a Marihuana Establishment is proposed to be located for a License Type listed in an application to the Village. The existing square footage of the building structure at the Business Facility Address shall solely be used for measuring the square footage of the Business Facility Address.
- E. "Business Facility Adjacent Address" means the singular United States postal address of a building structure which is physically adjoining or directly physically touching the building structure of a Business Facility Address. Physically adjoining Shall, for the purposes of this definition, mean the physical connection through walls, adjacent walls, or a common building structure, though this definition shall not include any common road, foundation, or surface that the building structure sits on.
- F. "Community Benefits Program" Shall refer to a program that the Village may establish for the purposes of assisting Individuals Disproportionately Impacted by Marihuana Prohibition in the creation of Worker-Owned Cooperatives within the Village, gaining employment in the marihuana industry within the Village and starting marihuana businesses within the Village. If created, this program shall be subject to the requirements of § 113.42 of this Code.
- G. "Village" shall refer to the Village of Pinckney.
- H. "Village Full License Authorization" shall be defined as the full local approval that the Village of Pinckney grants a Local Applicant to operate a Marihuana Establishment at a Business Facility Address when the Local Applicant has received a state operating license pursuant to the MRTMA. It shall not be considered a municipal license.
- I. "Clerk" means the Village Clerk of the Village of Pinckney.
- J. "Community Benefits Agreement" means a legally binding commitment from a Local Applicant, which shall also be binding on the Local Applicant's successors or assigns, that states that the Local Applicant will, contingent upon approval of a Provisional License and contingent upon the Local Applicant holding a Village Full License Authorization for a period of at least one year, and contingent upon the Village creating a Community Benefits Program, make an annual payment of ten thousand dollars (\$10,000) to the Community Benefits Program for as long as the Local Applicant, or its successors or assigns, holds ownership of the Village Full License Authorization.
- K. "Council" means the Village Council of the Village of Pinckney.
- L. "Designated Consumption Establishment" is defined as a business licensed by the Agency to permit adults twenty-one (21) years of age and Older to consume marihuana products at a Business Facility Address.
- M. "Fully Qualified Provisional License Application" is defined as Provisional License application for which all of the following is true and has been documented in the Local Applicant's application to the Village: (1) The Local Applicant currently holds a state operating license pursuant to the MMFLA or the MRTMA, though Microbusiness License Type Local Applicants and Class Marihuana Grower License Type Local Applicants shall be exempt from this requirement; (2) The stakeholders of the Local Applicant possess at least 10

total years of combined business experience, though Microbusiness License Type Local Applicants and Class A Marihuana Grower License Type Local Applicants shall be exempt from this requirement; (3) The Local Applicant has an Occupancy Affidavit with an Occupancy Percentage of zero (0) percent; (4) The Local Applicant has answered yes and provided supporting documentation for every question in the Public Health Plan Checklist category of their application; (5) The Local Applicant has committed in their application to hire at least ten (10) percent of the employees from local residents of the Village; (6) The Local Applicant has committed in their application to hiring at least twenty-five (25) percent of the employees consisting of Individuals Disproportionately Impacted by Marihuana Prohibition; (7) The Local Applicant has signed a Community Benefits Agreement as defined in this Code; (8) The Local Applicant has committed to hiring local contractors for work and improvements to its Business Facility Address; (9) The Local Applicant has completed over thirteen (13) of the items listed in § 113.34 this Code that may be included in a Provisional License application.

- N. "Individual Disproportionately Impacted by Marihuana Prohibition" is defined as an individual who meets at least one of the three criteria listed in the Marijuana Regulatory Agency's Social Equity Program, which includes: Individuals who have resided in a disproportionately impacted community, as defined by the Agency, for at least five (5) calendar years prior to the Application Date; individuals with a prior marihuana related conviction; and individuals with at least two (2) calendar years of caregiver experience under the State of Michigan's medical marihuana program.
- O. "Land Parcel" or "Parcel" shall be defined as a land parcel, with an associated tax identification number, allocated by the appropriate government body, whose official records are held by the Clerk, the Register of Deeds, or other appropriate governmental body, for the purposes of tracking the use of land within the Village.
- P. "Local Applicant" is defined as an individual, entity, person, or person who submits an application for a License Type to the Village.
- Q. "License Type" is defined as a single category of a license a Loc; Applicant can apply for, such as a microbusiness license, a marihuana retailer license, a cultivation or grower license, or other license that a Local Applicant can apply for through the processes set forth in this Code.
- R. "MMFLA" is defined as the Medical Marihuana Facilities Licensing Act 2016 PA 281, MCL 333.27101 et seq.
- S. "MMMA" is defined as the Michigan Medical Marihuana Act, 2008 IL, .MCL 333.26421 et seq.
- T. "MRTMA" is defined as the Michigan Regulation and Taxation c Marihuana Act. 2018 IL 1, MCL 333.27951 et seq.
- U. "____ Percentage Occupancy" or "____ Percentage Occupied," or "Occupancy Percentage," which may be used interchangeably in this Code shall be defined as the occupancy percentage of a Business Facility Address for the calendar year immediately prior to the Application Date, or, if applicable, of the calendar year starting no earlier than six months prior to the Application Date if the requirements of § 113.31 (U)(4) are met, and shall consist of the percentage occupancy of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits for the calendar year immediately prior

to the Application Date. The Percentage Occupancy shall be calculated using the average square footage of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits that is occupied during the calendar year immediately prior to the Application Date, utilizing a method determined by the Clerk. The method of determining Percentage Occupancy shall be subject to the following requirements of this Code:

1. Construction activity, renovation activity, or storage activity in the buildings, structures, or units of the Business Facility Address shall not be considered occupancy or counted as part of a Business Facility Address's Percentage Occupancy. However, storage units which are part of commercial storage businesses where rent is paid for the use of storage space shall be considered occupancy and shall count toward Percentage Occupancy.
 2. The determination of "Percentage Occupancy" or "Percentage Occupied" shall require an Occupancy Affidavit, and if possible, provide supporting documentation attesting to the occupancy of any buildings, structures, or units contained within the Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the Application Date.
 3. For the purposes of issuing a Provisional License, the Village shall verify the Percentage Occupancy of the property through an Occupancy Affidavit and, if possible, other supporting documentation which may include, but not be limited to, lease documents, purchase agreements, certificates of occupancy, utility bills, and Other documentation that can show the occupancy level over the time period.
 4. Notwithstanding the requirements of this section, if a Local Applicant submits an Occupancy Affidavit that is dated no earlier than six (6) months prior to the Application Date attesting to the Occupancy Percentage of the Business Facility Address, and if the Local Applicant submits an additional notarized affidavit within ten (10) days of the Application Date attesting that there has been no change in the Percentage Occupancy since the date the Occupancy Affidavit was first signed, the Local Applicant will be deemed to meet the requirements of the "calendar year immediately prior to the Application Date" Percentage Occupancy definition.
- V. "Occupancy Affidavit" is defined as a sworn affidavit from the owner of a Land Parcel or the authorized representative designated by the owner of the Land Parcel for this purpose, attesting to the Occupancy Percentage of any buildings, structures, or units contained within the Land Parcel upon which the Business Facility Address sits for the calendar year immediately prior to the Application Date, subject to the requirements of § 113.31 (U)(4) of this Code.
- W. "Provisional License" means a provisional local authorization issued by the Village for a Local Applicant to, contingent upon approval of a state operating license from the Agency, operate a Marihuana Establishment at a Business Facility Address, provided that the temporary local authorization shall become a Village Full License Authorization upon the Local Applicant receiving a state operating license pursuant to the MRTMA. A Local Applicant shall be prohibited from operating a Marihuana Establishment without a state license issued by the Agency.
- X. "Stakeholder" means the following for each type of Local Applicant:
1. For an individual or sole proprietorship: the proprietor.

2. For a partnership and limited liability partnership: all partners.
 3. 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 ten percent (10%) or less and who does not exercise control over or participate in the management of the partnership.
 4. For a limited liability company: all members and managers.
 5. For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and all stockholders, not including those holding a direct or indirect ownership interest of ten percent (10%) or less.
 6. For a publicly held corporation: all corporate officers or persons with equivalent titles, all directors and all stockholders, not including those holding a direct or indirect ownership interest of ten percent (10%) or less.
 7. For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the Articles of Incorporation or their bylaws.
- Y. "Stand Alone Business Facility Address" is defined as a Business Facility Address that does not have a Business Facility Adjacent Address and where the proposed Business Facility Address is physically separated from areas where smoking or the use of cannabis is prohibited, not including the Business Facility Address in question, and where smoke or the smell of cannabis does not infiltrate into nonsmoking areas or buildings that are not part of the Business Facility Address. This shall be demonstrated by a site plan or preliminary sketch submitted by the Local Applicant in § 113.34 (M).
- Z. "Vacant Land Parcel" is defined as a Land Parcel that does not contain a structure that had previously received a certificate of occupancy from the Village or that could receive a certificate of occupancy from the Village.
- AA. "Worker-Owned Cooperative" is defined as a business that is organized or registered under Subchapter T or another applicable section of the Internal Revenue Code and for which all of the following is true: (1) There is democratic control of the business by the workers or employees of the business themselves; and (2) The workers or employees of the business comprise over fifty (50) percent of the ownership of the business.

§ 113.32 ACTS PROHIBITED.

- A. No person shall operate a Marihuana Establishment in the Village without first obtaining a relevant Village Full License Authorization pursuant to the MRTMA and in accordance with the provisions of this Code. A separate Village Full License Authorization is required for each Marihuana Establishment.
- B. A licensed Marihuana Establishment in the Village shall not display any of the following on the exterior of a building, a public billboard, or any sign for the Marihuana Establishment:
 1. A green cross;
 2. Anything that resembles any part of a marihuana plant; or

3. The words or phrases "marihuana," "marijuana," "cannabis," "dank," "pot," "kush," "weed," "THC," or "Mary Jane."

§ 113.33 AUTHORIZATION OF MARIHUANA ESTABLISHMENTS.

- A. 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 - minimum of one (1) license
 4. Marihuana Retailer - minimum of two (2) licenses, maximum of two (2) licenses allowed
 5. Marihuana Processor - one (1) license
 6. Class A Marihuana Grower — minimum of one (1) license
 7. Class B Marihuana Grower — one (1) license
 8. Class C Marihuana Grower — one (1) license
 9. Designated Consumption Establishment - a minimum of one (1) license allowed
- B. The Village shall not enact any Unreasonably Impracticable restrictions on the commercial sale and/or serving of food and beverages at a Designated Consumption Establishment.
- C. There shall be no more than a total of two (2) unique Business Facility Addresses at which a Marihuana Retailer or a Designated Consumption Establishment may operate, provided that more than one of these License Types may be located at the same Business Facility Address, and that the co-location of a Marihuana Retailer and a Designated Consumption Establishment at a Business Facility Address shall not count towards more than one (1) of the total limit of two (2) unique Business Facility Addresses allowed to operate Within the Village for these License Types.
- D. Nothing in this Code shall be read to prohibit any combination of a Marihuana Grower, a Marihuana Processor, a Designated Consumption Establishment, or a Marihuana Retailer from operating at a single location or from operating at the same location as a Marihuana Facility. Nothing in this Code shall be read to prohibit a Designated Consumption Establishment from operating at the same Business Facility Address as a Marihuana Retailer. Notwithstanding anything else in this Code, a Marihuana Retailer may not be located at the same Business Facility Address as another Marihuana Retailer.

§ 113.34 PROVISIONAL LICENSE APPLICATIONS.

The Clerk shall develop an application process to apply for Provisional Licenses and the Clerk shall establish and make available Provisional License application forms, which shall require a sworn oath from an authorized representative of the Local Applicant that all information contained

within the application is true to the best of their knowledge and, in addition to this sworn oath, shall require no more than the following information:

- A. The full name, date of birth, physical address, email address, and telephone number of the Local Applicant in the case of an individual; or, in the case of an entity, all Stakeholders thereof.
- B. If the Local Applicant is an entity, the entity's articles of incorporation or organizational documents.
- C. If the Local Applicant is an entity, the entity's employer identification number.
- D. An affidavit that neither the Local Applicant nor any Stakeholder of the Local Applicant is in default to the Village.
- E. The Business Facility Address for which the Local Applicant is applying for a License Type.
- F. A "Commitment to Community" statement that demonstrates the Local Applicant's intent to advance the broader interest and goals of the community through local investment. This Commitment to Community statement shall outline the Local Applicant's intentions regarding the hiring of local residents and the employment of local contractors and local workers for improvements to its Business Facility Address, and its intentions for re-developing vacant, blighted, underutilized, and abandoned property through investments in its Business Facility Address. This section may include an Occupancy Affidavit.
- G. A location area map that identifies the relative location(s) of, and distance(s) from, the school(s) nearest to the Business Facility Address, including compliance with the MRTMA's requirement that the location of the Marijuana Establishment be at least one-thousand (1,000) feet away from a school unless the Village adopts an ordinance lowering this distance requirement.
- H. The License Type for which the Local Applicant is applying.
- I. Documentation of ownership, lease agreement, or Other legal arrangement permitting the Local Applicant to apply for a license or any and all municipal permits or approvals needed for the Business Facility Address pursuant to the terms of this Code.
- J. If applicable, a Community Benefits Agreement as defined in § 113.31(J) of this Code.
- K. A social equity plan that details how the Local Applicant plans on furthering the social equity objectives of this Code in terms of promoting business and employment opportunities for communities that have been disproportionately impacted by marijuana prohibition, and its commitment to hiring Individuals Disproportionately Impacted by Marijuana Prohibition. This social equity plan and the commitments that the Local Applicant makes shall be used for the purposes of scoring a Provisional License Application in § 113.36 of this Code and for any renewals or transfers as permitted by this Code.
- L. Documentation of the Local Applicant's Stakeholders of being Individuals Disproportionately Impacted by Marijuana Prohibition, if applicable, along with their respective ownership percentages. To verify proof of residency in a disproportionately impacted community as defined by the Agency, W-2 forms, mortgages, deeds, property tax documents, lease or rental agreements, insurance documents, voter registration, or Other valid documentation may be

used. To verify a marihuana-related conviction, a copy of judgment of sentence Or Other official documentation is required. To verify two (2) Calendar years of Caregiver experience, the Local Applicant must give authorization for the Agency to release relevant information under the MMMA or provide the appropriate supporting documentation.

- M. A site plan or preliminary sketch of the proposed facility, detailing the location of basic security features, entrances and exits, dimensions, and proposed layout of the Business Facility Address. This may include the square footage of the Business Facility Address and the location of any shared walls, bathrooms, doors, air ventilation systems, or facilities with non-marihuana businesses and the location of any Business Facility Adjacent Addresses. The applicant may note if they are applying to be a vertically integrated facility by noting other License Types that they are applying for at the Business Facility Address.
- N. If applicable, documentation that the Local Applicant has received a state operating license pursuant to the MMFLA or MRTMA or that the Local Applicant has received MMFLA or MRTMA pre-qualification approval from the Agency.
- O. Documentation of the business Operating, managing, or ownership experience of each of the Stakeholders of the Local Applicant.
- P. The completion of a "Security Plan Checklist" that contains answers to the following questions along with supporting documentation: (i) Does the Local Applicant have a security plan to prevent minors from Obtaining access to marihuana at the Business Facility Address? If so, provide supporting documentation; (ii) Does the Local Applicant have a security plan designed to deter potential robbery and theft from the Business Facility Address? If so, provide supporting documentation; (iii) Does the Business Facility Address of the Local Applicant meet the definition of a Stand Alone Business Facility Address and if so, does its security plan include the installation of physical security barriers to create a three hundred and sixty (360) degree perimeter surrounding its Stand Alone Business Facility Address for the purpose of deterring theft and crime? If so, provide supporting documentation.
- Q. The completion of a "Public Health Plan Checklist" that contains answers to the following questions along with supporting documentation: (i) Will the Local Applicant require that the employees at its Business Facility Address wear Personal Protective Equipment, including gloves, when handling marihuana and marihuana products? If so, provide supporting documentation; (ii) Does the Local Applicant have a public health plan to educate its customers about the potentially harmful side-effects of using marihuana in combination with other substances and to warn its customers about potential negative health effects of individuals with specific health conditions from using marihuana? If so, provide supporting documentation; (iii) Does the Business Facility Address of the Local Applicant contain an existing ventilation system that is not also utilized by a non-marihuana establishment or other non-marihuana business and where the ventilation system directs air from the Marihuana Establishment to the outside of the building through a filtration system sufficient to remove visible smoke if applicable, consistent with all applicable building codes and ordinances and adequate to eliminate odor at the boundary line of the Business Facility Address? If so, provide supporting documentation; (iv) Does the Business Facility Address of the Local Applicant qualify as a Stand-Alone Business Facility Address? If so, provide supporting documentation.

§ 113.35 APPLICATION FEE.

- A. 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 may be set by Council resolution, but Shall not exceed one hundred dollars (\$100), with a final application fee that does not exceed four thousand nine hundred dollars (\$4,900) to be paid to the Village upon approval of a state operating license issue by the Agency for the License Type at the Business Facility Address. If the Village fails to establish such a fee by the time that the initial application window opens, the fee amount shall default to the maximum amount of one hundred dollars (\$100) for the initial Provisional License application fee and four thousand nine hundred dollars (\$4,900) for the final fee paid, which shall be paid upon issuance of a state operating license to the Local Applicant.

§ 113.36 APPLICATION REVIEW.

- A. The Clerk shall establish a process to receive, process, and review applications in order to determine that all applicable required content listed § 113.34 of this Code has been included and that the relevant application fee has been paid, but the process may not conflict With the provisions of the Ordinance. The Clerk may only refuse to process an application for failure to pay the initial application fee.
- B. Except as provided by law, all materials submitted to the Village as pa of an application shall be exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq.
- C. The Clerk may set the opening of the initial application window of Marihuana Establishments no later than two weeks after the effective date of this Code. But if the Clerk fails to set the initial application window within ten (10) days after the effective date of this Ordinance, the initial application window for Marihuana Establishments shall automatically open on the eleventh (11th) day after the effective date of this Ordinance. If the Clerk fails to make an application form available for Marihuana Establishments, Local Applicants may prepare and fill their own application which must include information for at least twelve (12) of the items listed in § 113.34 of this Code and be titled "Village of Pinckney Marihuana Establishment Business Application" and be filed with the Clerk. The initial application window for Marihuana Establishments shall close thirty (30) day after it opens. One (1) calendar year after Provisional Licenses for Marihuana Establishments have been awarded to Local Applicants who apply within the initial application window for Marihuana Establishments, the Clerk may set a subsequent application window.
- D. Overall scoring and ranking shall be conducted and applied by the Clerk on the basis of assigned points from zero (0) points to one hundred (100) points with the lowest possible total score being zero (0) points and the highest possible total score being one hundred (100) points. In the event of an evaluation scoring tie, which causes there to be two (2) or more Local Applicants who achieve equal scores, the scoring-tied Local Applicants will be entered into a random draw to determine their relative rankings under this scoring procedure.
- E. After the closing of the initial application window, the Clerk shall score and rank applications for Marihuana Establishments by using the following scoring criteria which can be verified by category for applications submitted during the initial application window for Marihuana Establishments. Marihuana Microbusiness and Class A Marihuana Grower License Type and Designated Consumption Establishment applications shall be scored using a separate scoring procedure, as set forth in the section specifically designed for scoring such License Types below.

F. MARIHUANA CLASS B GROWER, CLASS C GROWER, PROCESSOR, RETAILER, SAFETY COMPLIANCE FACILITY, AND SECURE TRANSPORTER ESTABLISHMENT LICENSE TYPE SCORING PROCEDURE:

1. LOCAL APPLICANT VETTING. This category shall refer to the degree to which the Local Applicant has been found qualified for licensure by the Agency. A maximum of fifty (50) points shall be awarded for this category. If the Local Applicant possesses a State operating license pursuant to the MMFLA or the MRTMA, fifty (50) points shall be awarded for this category; or, if the Local Applicant possesses a state prequalification approval from the Agency pursuant to the MMFLA or the MRTMA, forty (40) points shall be awarded for this category. A Local Applicant can only earn points for either a state operating license or a state pre-qualification letter in this category.
2. COMPLETENESS: This category shall refer to the information which may be included in an application under the provisions of § 113.34 of this Code. The maximum number of scoring points in this category shall be ten (10) points. Points in this category shall only be determined based on the completeness of the application. Completeness shall be defined as the number of items in § 113.34 of this Code for which information has been submitted. If the application contains information for less than twelve (12) of the items listed in § 113.34 of this Code, zero (0) points shall be awarded for this category. If the application contains twelve (12) to thirteen (13) of the items listed in § 113.34 of this Code, seven (7) points shall be awarded for this category. If the application contains over thirteen (13) of the items listed in § 113.34 of this Code, ten (10) points shall be awarded for this category. Completeness in this category shall only refer to whether or not information for a § 113.34 item has been provided, and is not an assessment of the subjective quality or sufficiency of said information.
3. BUSINESS EXPERIENCE. This category shall refer to the years of business operating experience of the Stakeholders of the Local Applicant in operating either marihuana or non-marihuana businesses. A maximum of ten (10) points shall be awarded for this category, and one (1) point shall be awarded for each total year of combined business operating experience by the Stakeholders of the Local Applicant as documented in § 113.34 (O) of this Code.
4. SECURITY AND PUBLIC HEALTH: This category allocates points based on whether the Business Facility Address of a Local Applicant has features that will increase the security of the Marihuana Establishment and reduce any public health risks that may result from the Marihuana Establishment. A maximum of seven (7) points shall be awarded for this category. If the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two (2) of the Security Plan Checklist questions listed in § 113.34 (P) of this Code, one (1) point shall be awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Security Plan Checklist questions listed in § 113.34 (P) of this Code, three (3) points shall be awarded for this category. If the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and provided the appropriate supporting documentation to at least two (2) of the Public Health Plan Checklist questions listed in § 113.34 (Q) of this Code, two (2) additional points shall be awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Public Health Plan Checklist questions listed in § 113.34 (Q) of this Code, four (4) additional points shall be awarded for this category.

5. **STRUCTURAL SUITABILITY:** This category allocates points based on whether the Business Facility Address is likely to be in compliance with the MRTMA, the time it will take for the Business Facility Address to come into compliance with the MRTMA, and the safety risk posed by building structures that are not well suited to Operate as Marihuana Establishments. A maximum of ten (10) points shall be awarded for this category. Application information in § 113.34 (M) shall be used for the purposes of allocating points in this category. If the application is for a Marihuana Retailer License Type and the Business Facility Address contains a minimum of One thousand (1,000) square feet, ten (10) points shall be awarded for this category. If the application is for a Marihuana Grower License Type and the Business Facility Address contains a minimum of two thousand five hundred (2,500) square feet, ten (10) points shall be awarded for this category.
6. **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance the broader interest and goals of the community through investment in the people of the community and in the community's tax base. This is demonstrated through the following criteria: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to its Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, or abandoned property in the community. The maximum number of scoring points in this category shall be seven (7) points. Points in this category shall be awarded as follows: If the Local Applicant, as part of the Commitment to Community category of its application, commits to hiring a minimum of ten (10) percent of its employees from local residents of the Village, one (1) point shall be awarded for this category. If the Local Applicant, as part of the Commitment to Community category of its application commits to hiring local contractors for work and improvements to its Business Facility Address, one (1) additional point shall be awarded for this category. Points for long-term community investment and re-development shall be awarded based on the Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero percent, the Local Applicant shall be awarded five (5) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded three (3) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded two (2) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially viable building structures or is a Vacant Land Parcel. the Local Applicant shall be awarded zero (0) additional points for this category.
7. **SOCIAL EQUITY:** This category allocates points based on whether the Local Applicant has made a commitment to hire Individuals Disproportionately Impacted by Marihuana Prohibition. A maximum of six (6) points shall be awarded for this category. If the Local Applicant commits to hire a minimum of twenty-five (25) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, three (3) points shall be awarded for this category; or, if the Local Applicant commits to hiring a minimum of ten (10) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, one (1) point shall be awarded for this category. If the Local Applicant includes a Community Benefits Agreement in their application that meets the requirements of § 113.34 (J) of this Code, three (3) additional points shall be awarded for this category.

G. MARIHUANA ESTABLISHMENT SCORING PROCEDURE FOR MICROBUSINESS AND CLASS A MARIHUANA GROWER:

1. **COMPLETENESS:** This category shall refer to the information that may be included in an application under the provisions of § 113.34 of this Code. The maximum number of scoring points in this category shall be twenty (20) points. Points in this category shall be determined based on the completeness of the application. Completeness shall be defined as the number of items in § 113.34 of this Code for which information has been submitted. If the application contains less than twelve (12) of the items listed in § 113.34 of this Code, no points shall be awarded for this category. If the application contains twelve (12) to thirteen (13) of the items listed in § 113.34 of this Code, fifteen (15) points shall be awarded for this category. If the application contains over thirteen (13) of the items listed in § 113.34 of this Code, twenty (20) points shall be awarded for this category. Completeness in this category shall only refer to whether or not information for a § 113.34 item has been provided, and is not an assessment of the subjective quality or sufficiency of said information.
2. **SECURITY AND PUBLIC HEALTH:** This category allocates points based on whether the Business Facility Address of a Local Applicant has features that will increase the security of the Marihuana Establishment and reduce any public health risks that may result from the Marihuana Establishment. A maximum of twenty (20) points shall be awarded for this category. If the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two of the Security Plan Checklist questions listed in § 113.34 (P) of this Code, five (5) points shall be awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Security Plan Checklist questions listed in § 113.34 (P) of this Code, ten (10) points shall be awarded for this category. If the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two (2) of the Public Health Plan Checklist questions listed in § 113.34 (Q) of this Code, five (5) additional points shall be awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Public Health Plan Checklist questions listed in § 113.34 (Q) of this Code, ten (10) additional points shall be awarded for this category.
3. **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance the broader interest and goals of the community through investment in the people of the community and in the community's tax base. This is demonstrated through the following: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to its Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, or abandoned property in the community. The maximum number of scoring points in this category shall be twenty (20) points. Points in this category shall only be awarded as follows: If the Local Applicant, as part of their Commitment to Community category of its application, commits to hiring of at least ten (10) percent of its employees from local residents of the Village, two (2) points shall be awarded for this category. If the Local Applicant, as part of the Commitment to Community category of its application commits to hiring local contractors for work and improvements to its Business Facility Address, three (3) additional point shall be awarded for this category. Points for long-term community investment and re-development shall be awarded based on the

Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero (0) percent, the Local Applicant shall be awarded fifteen (15) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded ten (10) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded five (5) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially viable building structures or is a Vacant Land Parcel, the Local Applicant shall be awarded zero (0) additional points for this category.

4. **STRUCTURAL SUITABILITY:** This category allocates point based on whether the Business Facility Address is likely to be in compliance with the MRTMA, the time it will take for the Business Facility Address to come into compliance with the MRTMA, and safety risk posed by building structures that are not well suited to operate as Marihuana Establishments. A maximum of ten (10) points shall be awarded for this Category. Application information in § 113.34 (M) shall be used for the purposes of allocating points in this category. If the application is for a Marihuana Microbusiness and the Business Facility Address contains a minimum of five thousand (5,000) square feet, ten (10) points shall be awarded for this category. If the application is for a Class A Marihuana Grower License Type and the Business Facility Address contains a minimum of two thousand five hundred (2,500) square feet, ten (10) points shall be awarded for this category.
5. **SOCIAL EQUITY:** This category allocates points based on whether the Local Applicant has made a commitment to hire Individual: Disproportionately Impacted by Marihuana Prohibition. A maximum of ten (10) points shall be awarded for this category. If the Local Applicant commits to hire a minimum of twenty-five (25) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, five (5) points shall be awarded for this category; or, if the Local Applicant commits to hiring a minimum of ten (10) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, two (2) points shall be awarded for this category. If the Local Applicant includes a Community Benefits Agreement in their application that meets the requirements of § 113.34 (J) of this Code, five (5) additional points shall be awarded for this category.
6. **SOCIAL EQUITY BACKGROUND:** This category allocates points based on whether the Stakeholders of the Local Applicant consist of Individuals Disproportionately Impacted by Marihuana Prohibition. A maximum of twenty (20) points shall be awarded for this category. If at least One (1) Stakeholder with at least a twenty-five (25) percent ownership of the Local Applicant entity has resided in a disproportionately impacted community, as defined by the Agency, for at least five (5) calendar years prior to the Application Date, three (3) points shall be awarded for this category. If at least one (1) Stakeholder with at least a twenty-five (25) percent ownership of the Local Applicant entity consists of an individual with a prior marihuana related conviction, three (3) additional points shall be awarded for this category. If at least one Stakeholder with at least a twenty-five (25) percent ownership of the Local Applicant entity consists of an individual with at least two (2) calendar years of caregiver experience under the State of Michigan's medical marihuana program, three (3) additional points shall be awarded for this category. If over fifty (50) percent of the Local Applicant entity is owned by Stakeholder(s) who are Individuals Disproportionately Impacted by Marihuana Prohibition as defined by this

Code, three (3) additional points shall be awarded for this category. If the Local Applicant meets the definition of a Worker-Owned Cooperative as defined by this Code, eight (8) additional points shall be awarded for this category.

H. MARIHUANA ESTABLISHMENT SCORING PROCEDURE FOR DESIGNATED CONSUMPTION ESTABLISHMENTS:

1. LOCAL APPLICANT VETTING. This category shall refer to the degree to which the Local Applicant has been found qualified for licensure by the Agency. A maximum of fifty (50) points shall be awarded for this category. If the Local Applicant possesses a State operating license pursuant to the MMFLA or the MRTMA, fifty (50) points shall be awarded for this category; or, if the Local Applicant possesses a state prequalification approval from the Agency pursuant to the MMFLA or the MRTMA, forty (40) points shall be awarded for this category. A Local Applicant can only earn points for either a state operating license or a state pre-qualification letter in this category.
2. COMPLETENESS: This category shall refer to the information which may be included in an application under the provisions of § 113.34 of this Code. The maximum number of scoring points in this category shall be ten (10) points. Points in this category shall only be determined based on the completeness of the application. Completeness shall be defined as the number of items in § 113.34 of this Code for which information has been submitted. If the application contains less than twelve (12) of the items listed in § 113.34 of this Code, zero (0) points shall be awarded for this category. If the application contains twelve (12) to thirteen (13) of the items listed in § 113.34 of this Code, seven (7) points shall be awarded for this category. If the application contains over thirteen (13) of the items listed in § 113.34 of this Code, ten (10) points shall be awarded for this category. Completeness in this category shall only refer to whether or not information for a § 113.34 item has been provided, and is not an assessment of the subjective quality or sufficiency of said information.
3. BUSINESS EXPERIENCE. This category shall refer to the years of business operating experience of the Stakeholders of the Local Applicant in operating either marijuana or non-marijuana businesses. A maximum of ten (10) points shall be awarded for this category, and one (1) point shall be awarded for each total year of combined business operating experience by the Stakeholders of the Local Applicant as documented in § 113.34 (O) of this Code.
4. SECURITY AND PUBLIC HEALTH: This category allocates points based on whether the Business Facility Address of a Local Applicant has features that will increase the security of the Marijuana Establishment and reduce any public health risks that may result from the Marijuana Establishment. A maximum of seven (7) points shall be awarded for this category. If the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to at least two (2) of the Security Plan Checklist questions listed in § 113.34 (P) of this Code, one (1) point shall be awarded for this category; or, if the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Security Plan Checklist questions listed in § 113.34 (P) of this Code, three (3) points shall be awarded for this category. If the Local Applicant for the proposed Marijuana Establishment has answered affirmatively and provided the appropriate supporting documentation to at least two (2) of the Public Health Plan Checklist questions listed in § 113.34 (Q) of this Code, two (2) additional points shall be

awarded for this category; or, if the Local Applicant for the proposed Marihuana Establishment has answered affirmatively and has provided the appropriate supporting documentation to all of the Public Health Plan Checklist questions listed in § 113.34 (Q) of this Code, four (4) additional points shall be awarded for this category.

5. **STRUCTURAL SUITABILITY:** This category allocates points based on whether the Business Facility Address is likely to be in compliance with the MRTMA and the time it will take for the Business Facility Address to come into compliance with the MRTMA. A maximum of ten (10) points shall be awarded for this category. Application information in § 113.34 (M) shall be used for the purposes of allocating points in this category. If the Business Facility Address contains a commercial kitchen, five (5) points shall be awarded for this category. If the Business Facility Address contains a minimum of five thousand (5,000) square feet, five (5) additional points shall be awarded for this category.
6. **COMMITMENT TO COMMUNITY:** This category allocates points based on the Local Applicant's commitment to advance the broader interest and goals of the community through investment in the people of the community and in the community's tax base. This is demonstrated through the following criteria: Commitment to the hiring of local residents and hiring of local contractors for work and improvements to its Business Facility Address, and commitment to long-term investment in the community through the redevelopment of vacant, blighted, or abandoned property in the community. The maximum number of scoring points in this category shall be seven (7) points. Points in this category shall be awarded as follows: If the Local Applicant, as part of the Commitment to Community category in its application, commits to hiring a minimum of ten (10) percent of its employees from local residents of the Village, one (1) point shall be awarded for this category. If the Local Applicant, as part the Commitment to Community category of its application commits to hiring local contractors for work and improvements to its Business Facility Address, one (1) additional point shall be awarded for this category. Points for long-term community investment and re-development shall be awarded based on the Percentage Occupancy of the Business Facility Address. If the Business Facility Address has a Percentage Occupancy of zero percent, the Local Applicant Shall be awarded five (5) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than zero (0) percent and less than or equal to twenty-five (25) percent, the Local Applicant shall be awarded three (3) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than twenty-five (25) percent and less than or equal to fifty (50) percent, the Local Applicant shall be awarded two (2) additional points for this category. If the Business Facility Address has a Percentage Occupancy greater than fifty (50) percent, the Local Applicant shall be awarded zero (0) additional points for this category. If the Business Facility Address consists of no commercially Viable building structures or is a Vacant Land Parcel, the Local Applicant shall be awarded zero (0) additional points for this category.
7. **SOCIAL EQUITY:** This category allocates points based on whether the Local Applicant has made a commitment to hire Individuals Disproportionately Impacted by Marihuana Prohibition. A maximum of six (6) points shall be awarded for this category. If the Local Applicant commits to hire a minimum of twenty-five (25) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, three (3) points shall be awarded for this category; or, if the Local Applicant commits to hiring a minimum of ten (10) percent of its workforce consisting of Individuals Disproportionately Impacted by Marihuana Prohibition, one (1) point shall be awarded for this category. If the Local Applicant includes a Community Benefits Agreement in their application that

meets the requirements of § 113.34 (J) of this Code, three (3) additional points shall be awarded for this category.

- I. At the closing of the first thirty (30) day initial application window, the Clerk shall process and score applications for Marihuana Establishment License Types, starting with Marihuana Designated Consumption Establishments, which shall be awarded Provisional Licenses for Marihuana Establishments first, then Marihuana Retailers, which shall be awarded Provisional Licenses for Marihuana Establishments second, then Marihuana Microbusinesses, which shall be awarded Provisional Licenses for Marihuana Establishments third, and the remainder of the available Marihuana Establishment License Types shall be awarded in order of the highest scoring Local Applicant.
- J. If, at any time after Provisional Licenses for Designated Consumption Establishments have been awarded, pursuant to the limitations of § 113.33 (C) of this Code, there are no Business Facility Address locations available for a Marihuana Retailer for a Business Facility Address that does not already have and will not receive a Provisional License or a Village Full License Authorization for a Designated Consumption Establishment at the Business Facility Address, the Clerk shall award Provisional Licenses for Marihuana Retailers only for those Business Facility Addresses that already have received or will receive Provisional Licenses or Village Full License Authorizations for Designated Consumption Establishments in order of the highest scoring Local Applicant.
- K. If the Clerk fails to award three (3) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window, all Fully Qualified Provisional License Applications shall be deemed to have local approval under this Code to operate a Marihuana Establishment contingent upon approval of a State Marihuana Establishment license by the Agency. Notwithstanding anything else contained in this Ordinance, under this circumstance, the Village shall not nor shall any of its representatives notify the Agency that a proposed Marihuana Establishment is not or was not in compliance with an ordinance consistent with the MRTMA and in effect at the time of the Local Applicant's application to the Agency, and any Marihuana Establishment at a Business Facility Address for a Fully Qualified Provisional License Application shall be authorized to operate in the Village in accordance with state law without any Village Marihuana Establishment permit, license, Provisional License, or Village Full License Authorization as long as they operate pursuant to the rules and regulations promulgated by the Agency. If the requirements for one or more Fully Qualified Provisional License Applications to automatically receive local approval to operate pursuant to a state operating license have been met, this number of Fully Qualified Provisional License Applications shall control the number of Marihuana Establishments allowed if the number is greater than the number set in § 113.33 of this Code.
- L. If a Local Applicant is granted a Provisional License for a Fully Qualified Provisional License Application through a writ of mandamus to the Village or by compelling the Village to act through a court order because the Village has failed to award three (3) Provisional Licenses for Marihuana Retailers, Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window, such a Local Applicant shall not be required to pay more than a maximum annual amount of five-hundred dollars (\$500) for the next ten (10) calendar years for its Village Full License Authorization annual renewal fee.
- M. A Provisional License may be used to satisfy the licensing requirements for a Local Applicant going through the Agency's licensing process for a Marihuana Establishment. A Provisional

License shall automatically become a Village Full License Authorization when the Agency issues a license to the Marihuana Establishment at the Business Facility Address.

§ 113.37 LICENSE REQUIREMENTS.

A. A Village Full License Authorization under this Code shall be subject to the following conditions:

1. Compliance with the requirements of this Code;
2. Compliance with the provisions of the MRTMA and any rules promulgated thereunder;
3. Marihuana Establishments shall only operate between the hours of 9:00 AM and 9:00 PM daily. Notwithstanding this requirement, grower or cultivation licensees may operate 24 hours per day, Marihuana Microbusinesses may operate from 7:00 AM until 12:00 AM, Designated Consumption Establishments may operate from 9:00 AM until 2:00 AM, and a Marihuana Retailer that is co-located with a Designated Consumption Establishment may operate from 9:00 AM until 12:00 AM.

§ 113.38 LICENSES GENERALLY.

A. A Village Full License Authorization that is issued under this Code 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 by the Clerk upon continued compliance with this Code.

C. Licensees or Provisional License holders may transfer a Village Full License Authorization or Provisional License issued under this Code to a location at a different Business Facility Address upon receiving written approval from the Clerk and pursuant to any applicable requirements under the MRTMA, and relevant rules promulgated by the Agency. In order to request Village approval to transfer a Village Full License Authorization or Provisional License to a new Business Facility Address, the licensee or Provisional License holder must make a written request to the Clerk, indicating the current location of the Marihuana Establishment and the proposed new Business Facility Address. Notwithstanding this section, a Microbusiness license may not be transferred to any other Business Facility Address within the Village.

D. Licensees or Provisional License holders may transfer a Village Full License Authorization or Provisional License issued under this Code to a different individual or entity, and the licensee or Provisional License holder shall notify the Clerk of the transfer. The transfer must comply with the MRTMA, and any applicable rules promulgated thereunder, and shall not require approval by the Agency. The Village shall be prohibited from interfering with a Village Full License Authorization or Provisional License transfer provided that the new Local Applicant or individual owner must notify the Village of the transfer by filing an Application with the Clerk upon a form provided by the Village or, if such a form is unavailable, shall complete the information required in § 113.34 of this Code or the transferred Marihuana Establishment Provisional License and file such information with the Clerk. The Clerk shall grant the new licensee or Provisional License holder or Village Full License Authorization holder/owner the same rights as the previous licensee or Village Full License Authorization owner or Provisional License owner. The Local Applicant that receives the transfer of the Provisional License or Village Full License Authorization or

license shall remain legally bound by any commitments made in the original application to the Village that governed the original issuance of the Provisional License or Village Full License Authorization it is receiving by transfer, including commitments made in the Commitment to Community and social equity categories of the original application.

E. Notwithstanding the requirements of § 113.38 (A), (B), (C), or (D), neither a Marihuana Microbusiness Provisional License nor a Marihuana Microbusiness Village Full License Authorization may be transferred to anyone with an ownership percentage by Individuals Disproportionately Impacted by Marihuana Prohibition that is less than the ownership percentage of the Local Applicant who was originally awarded the Provisional License or Village Full License Authorization to be transferred. Furthermore, notwithstanding the requirements of § 113.38 (A), (B), (C), or (D), no Provisional License or license or Village Full License Authorization may be transferred to a Local Applicant that does not have a "Commitment to Community" application category score of equal or greater to the Local Applicant that is transferring the Provisional License or license or Village Full License Authorization, and no Provisional License or Village Full License Authorization or license may be transferred to a Local Applicant that does not have a Social Equity application category score of equal or greater than the license holder that is transferring the Provisional License or license or Village Full License Authorization.

F. Notwithstanding the requirements of this Code, the provisions of this Code dependent upon Occupancy Percentage shall not apply to any renewal applications or to any transfer applications for a license or Provisional License or Village Full License Authorization.

§ 113.39 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. A Provisional License may automatically be renewed for one (1) Calendar year by a Local Applicant upon paying a five thousand dollar (\$5,000) annual renewal fee provided that it adheres to the requirements in § 113.41 of this Code. Notwithstanding the requirements of § 113.35 of this Code, there is an exception to the five thousand dollar (\$5,000) annual renewal fee for any Local Applicant that is granted a Provisional License for a Fully Qualified Provisional License Application by order of a court because the Village has failed to award three (3) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window, or for a Local Applicant that is granted the ability to operate by right by a Court order because the Village fails to award three (3) Provisional Licenses for Marihuana Retailers, Marihuana Microbusinesses, and/or Designated Consumption Establishments within thirty (30) days after the closure of the initial application window. Such a Local Applicant shall not be required to pay an annual licensing or Village Full License Authorization renewal fee exceeding the total annual amount of five-hundred dollars (\$500) for the next ten (10) calendar years of the Village Full License Authorization annual renewal for any License Type at any approved Business Facility Address within the Village.

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. This renewal form shall be developed by and made available 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).

E. A renewal shall be deemed approved if the Village has not issued a formal notice of denial within sixty (60) days of the renewal date.

F. After a Microbusiness License holder has been operating for six (6) months at a Business Facility Address, one or more different Local Applicant(s) may request and shall be approved by the Village for an additional Microbusiness Provisional License(s) at a different Business Facility Address on the same land parcel as the original Business Facility Address which has been operating for at least six (6) months. This provision shall control the number of Marihuana Microbusiness Establishments authorized in § 113.38 of this Code.

§ 113.40 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 after being provided with sufficient time to make the correction, the Clerk may, after a notice and hearing, revoke or suspend such license as hereinafter provided.

§ 113.41 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 § 113.41 (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 two (2) calendar years after the issuance of a Provisional License, subject to reasonable extensions for cause by the Clerk.

C. Failure of the licensee to demonstrate to the Village that it has complied with a Community Benefits Agreement it has committed to and the social equity plan provided in its application, including any commitments it may have made to hire Individuals Disproportionately Impacted by Marihuana Prohibition in Order to receive its Provisional License or local approvals. The Clerk shall notify a Local Applicant or licensee of the reasons for denial or suspension or nonrenewal of an application for a License Type or of a Village Full License Authorization renewal or for revocation of a license or any adverse decision under this Code and provide the Local Applicant or licensee with the opportunity to be heard. Any Local Applicant or licensee aggrieved by the denial or revocation of a license or adverse decision under this Ordinance may appeal to the Clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk. Such an appeal shall be taken by filing with the Clerk, within fourteen (14) days after notice of the violation has been mailed to the Local Applicant or licensee's last known address on the records of the Clerk, a written statement setting forth fully the grounds for the appeal. The Clerk shall review the report and recommendation of the hearing officer and make a decision on the matter. The Clerk's decision may be further appealed to the Village Council if applied for in

writing to the Council no later than thirty (30) days after the Clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the Council pursuant to the requirements of this Ordinance. Any decision by the Council on an appeal shall be subject to all remedies available to the Local Applicant under the laws of the State of Michigan.

§ 113.42 COMMUNITY BENEFITS PROGRAM.

The Village may establish a Community Benefits Program for the purpose of economic development within the Village and to assist Individuals Disproportionately Impacted by Marihuana Prohibition in the creation of Worker-Owned Cooperatives, gaining employment in the marihuana industry within the Village, and starting licensed marihuana businesses in the Village, though not every one of these goals need be accomplished simultaneously through the actions of the Community Benefits Program. This program, if established by the Village, shall be subject to rules developed by the Village and shall be subject to the following requirements:

- A. All funds contributed pursuant to Community Benefits Agreements from Marihuana Establishments in the Village shall go to a registered 501(c)3 nonprofit organization designated by the Village, which shall work to effectuate the goals of the program On behalf of the Village and provide an annual report to the Village on its activities.
- B. The Village shall develop an application process for selecting a 501(c)3 nonprofit organization to manage the Community Benefits Program. Criteria for the 501(c)3 nonprofit organization shall include, but shall not be limited to, organizations that have at least five (5) years of experience working to develop Worker-Owned Cooperatives, and the nonprofit shall have at least one member of its staff or its board of directors with at least two years of experience working with the licensed cannabis industry in Michigan, which may include legal or other municipal governance experience with the licensed cannabis industry in Michigan.
- C. The nonprofit selected by the Village shall not be a religious organization, and shall not have members of its board of directors or staff who are relatives or family members of Village employees or staff or anyone receiving compensation in any capacity from the Village. The nonprofit selected by the Village shall not have any members of its board of directors hold officer positions within the Village or seats on the Village Council. NO employee, member of the Village Council, or family member or relative of any Village employee or member of the Village Council shall receive any direct or indirect payment from the nonprofit. Nonprofits applying to be considered to manage the Community Benefits Program shall disclose all members of their board of directors and staff and the Village shall confirm that the nonprofit is in compliance with these requirements,
- D. The nonprofit selected by the Village shall use funds contributed pursuant to Community Benefits Agreements in the Village to assist Individuals Disproportionately Impacted by Marihuana Prohibition in starting Worker-Owned Cooperatives within the Village, gaining employment in the marihuana industry within the Village, and/or to start marihuana businesses within the Village.
- E. No more than twenty (20) percent of funds the nonprofit receives from Community Benefits Agreements in the Village may be used for administrative purposes by the nonprofit. The remaining funds shall be allocated through grant-making in order to achieve the goals of the Community Benefits Program.
- F. The Village may set up additional procedures, rules, or regulations that it deems necessary to implement the Community Benefits Program.

§ 113.43 PENALTY.

A. A person or entity who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine of no more than five hundred (\$500.00) dollars.

B. Any ordinances or parts of ordinances that conflict with this Ordinance are hereby repealed so as to give this ordinance full force and effect, and any other provisions of ordinances or Village regulations or Village Resolutions that conflict with this Ordinance are inapplicable to conduct authorized under this Ordinance.

C. This Ordinance shall become effective immediately upon voter enactment.

§ 113.44 SEVERABILITY AND EXECUTION.

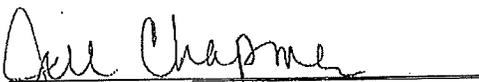
The various parts, sections and clauses of this Ordinance are hereby declared to be severable and self-executing. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid as to any person or circumstance by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby and that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this Ordinance. Ordinances may be enacted to facilitate operation of this Ordinance. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this Ordinance. In cases where there is a conflict between the MMFLA and the MRTMA, the MRTMA shall control.

Section 2. 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 3. 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 4. Effective Date. This Ordinance shall be effective from and after the date of its publication.


Rebecca Foster, Village President

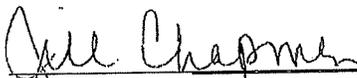

Jill Chapman, Village Clerk

Village Council Member Vedder 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	<u>✓</u>
Birik Kauserud, Trustee	<u>✓</u>
Ted Kinczkowski, Trustee	<u>✓</u>
Linda E. Lavey, Trustee	<u>✓</u>
Brian Matson, Trustee	<u>✓</u>
Shawn Tibus, Trustee	<u>✓</u>
Robert Vedder, Trustee	<u>✓</u>

The President thereupon declared this Ordinance adopted by the electorate was approve 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. 151 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

EXHIBIT D

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 marihuana establishment;
- e) A copy of the Special Use Permit issued by the Village of Pinckney Planning Commission;
- f) A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana 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 marihuana 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.

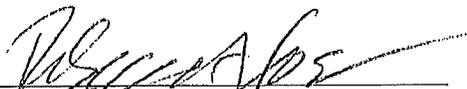
A person or entity who violates any of the provisions of § 113.30 through §113.40 of this Code of Ordinances shall be responsible for a municipal civil infraction punishable by a civil fine of no more than five hundred (\$500.00) dollars, as provided in Section 10.99 of this Code of Ordinances.

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.

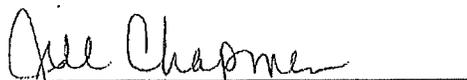
Section 3. Savings Clause. This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed, and this ordinance shall in no manner affect any rights, claims, privileges, immunities or causes 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

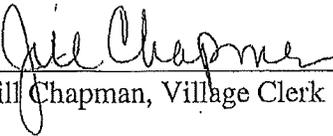
Village Council Member Lavey offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member Tibus, and upon being put to a vote, the vote was as follows:

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

Y
Y
Y
Y
Y
Y
Y

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

EXHIBIT E

RESOLUTION

NO. : 20 - 26

VILLAGE OF PINCKNEY

DATE: November 23, 2020

**RESOLUTION APPROVING A TEMPORARY MARIJUANA
LICENSING MORATORIUM**

WHEREAS, Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27101 *et seq.*, (the "MRTMA") authorizes the Village to adopt certain licensing ordinances and regulations as to marijuana establishments provided the local regulations are consistent with this MRTMA's requirements; and also allows for an initiative petition as to the number of marihuana establishments allowed within a municipality (MCL 333.27956); and

WHEREAS, the Village electorate approved an initiative allowing the establishment of certain marijuana establishments within the Village at the November 3, 2020 General Election.

WHEREAS, the Village desires to ascertain the best and safest path to implement this change in order to protect the public health, safety, and welfare, and to assure an orderly local licensure process; and

WHEREAS, the growth, sale or dispensation of recreational marijuana was not envisioned when the current Village of Pinckney Zoning Ordinance was adopted and they are not regulated in any way by the under the Village's current land use regulations; and

WHEREAS, the Village of Pinckney Planning Commission and the Village Planner have begun work on potential Zoning Ordinance amendments for licensed marijuana establishments in the Village of Pinckney; and

WHEREAS, the Village Council needs to clarify the marijuana ordinance and its requirements; develop the necessary forms and procedures; and determine and arrange for the necessary staffing to implement the licensing of marijuana establishments in the Village of Pinckney; and

WHEREAS, the Village Council determines it is desirable to avoid the acceptance of license applications and the issuance of licenses or permits for businesses or uses which conduct or engage in the growing, testing, transportation, use, sale, or dispensation of recreational marijuana until an amendment to the Zoning Ordinance becomes effective, a local permitting process and procedure is established; and the Village can develop the necessary steps to implement such licensing within the Village; and

WHEREAS, under the Village Charter and State law, the Village Council has authority to adopt regulations to abate nuisances and preserve the public health, and for the safety and good government of the Village and the general welfare of its inhabitants that are not inconsistent with the general laws of this State; and the Village Council may provide by zoning ordinance for the regulation of land development and to regulate the use of land and structures to meet the needs of the Village's citizens and to promote public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Village Council hereby adopts and imposes a temporary moratorium on acceptance of license applications and the issuance of licenses or permits for businesses or uses which conduct or engage in the growing, testing, transportation, use, sale, or dispensation of recreational marijuana for a period of no less than until March 1, 2021, but no longer than April 1, 2021.

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

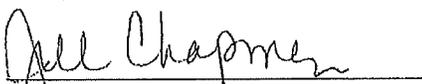
Rebecca Foster, President	<u>Y</u>
Eirik Kauserud, Trustee	<u>Y</u>
Ted Kinczkowski, Trustee	<u>Y</u>
Linda Lavey, Trustee	<u>Y</u>
Brian Matson, Trustee	<u>Y</u>
Shawn Tibus, Trustee	<u>Y</u>
Robert Vedder, Trustee	<u>Y</u>

The President thereupon declared this Resolution approved and adopted by the Village Council of the Village of Pinckney this 23rd day of November, 2020.



Rebecca Foster, Village President

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a meeting held on November 23, 2020.



Jill Chapman, Village Clerk

EXHIBIT F

Court of Appeals, State of Michigan

ORDER

Jobs for Farmington v Mary Mullison

Docket No. 354743

LC No. 2020-182919-CZ

Colleen A. O'Brien
Presiding Judge

Mark J. Cavanagh

Kathleen Jansen
Judges

The Court orders, under MCR 7.216(A)(7), that the September 2, 2020, order denying plaintiff's request for a writ of mandamus is AFFIRMED. The extraordinary remedy of a writ of mandamus is properly granted when: "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014). Plaintiff did not have a clear legal right for its proposed initiative to appear on the ballot and defendant, the Clerk of the City of Farmington, did not have a clear legal duty to include the proposed initiative on the ballot. Plaintiff's proposed ballot language far exceeds the scope of MCL 333.27956(1), which allows individuals to "petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality" Plaintiff's proposed initiative encompasses more than providing for the number of marihuana establishments. In addition, plaintiff did not have a clear legal right to performance because MCL 168.646a(2) required that all ballot language be certified to intervening defendant Oakland County Clerk Lisa Brown at least 82 days before the election, or August 13, 2020. Because plaintiff did not file its complaint for mandamus until August 14, 2020, it did not have a clear legal right to the relief requested. Accordingly, the September 2, 2020, order denying mandamus relief is AFFIRMED.

The Court retains no further jurisdiction.

This order is to have immediate effect. MCR 7.215(F)(2).


Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 09 2020

Date

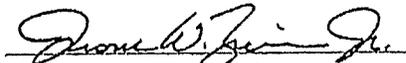

Chief Clerk

EXHIBIT G

Court of Appeals, State of Michigan

ORDER

Jobs for Oakland v Tammy Neeb

Colleen A. O'Brien
Presiding Judge

Docket No. 354755

Mark J. Cavanagh

LC No. 2020-183008-AW

Kathleen Jansen
Judges

The Court orders, under MCR 7.216(A)(7), that the September 2, 2020, order denying plaintiff's request for a writ of mandamus is AFFIRMED. The extraordinary remedy of a writ of mandamus is properly granted when: "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014). Plaintiff did not have a clear legal right for its proposed initiative to appear on the ballot and defendant, the Clerk of the City of Keego Harbor, did not have a clear legal duty to include the proposed initiative on the ballot. Plaintiff's proposed ballot language far exceeds the scope of MCL 333.27956(1), which allows individuals to "petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality" Plaintiff's proposed initiative encompasses more than providing for the number of marihuana establishments. In addition, plaintiff did not have a clear legal right to performance because MCL 168.646a(2) required that all ballot language be certified to intervening defendant Oakland County Clerk Lisa Brown at least 82 days before the election, or August 13, 2020. Because plaintiff did not file its complaint for mandamus until August 20, 2020, it did not have a clear legal right to the relief requested. Accordingly, the September 2, 2020, order denying mandamus relief is AFFIRMED.

Further, the issue presented is moot. "An issue is moot if an event has occurred that renders it impossible for the court to grant relief." *Barrow v Detroit Election Comm*, 305 Mich App 649, 659; 854 NW2d 489 (2014) (quotation marks and citation omitted). On September 9, 2020, the Oakland County Director of Elections ordered the printing of ballots. Thus, this Court cannot grant the requested relief.

The Court retains no further jurisdiction. This order is to have immediate effect. MCR 7.215(F)(2).

Colleen A. O'Brien
Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



SEP 10 2020

Date

Jerome W. Zimmer Jr.
Chief Clerk

EXHIBIT H

Court of Appeals, State of Michigan

ORDER

Jobs for Monroe v Monroe City Clerk

Docket No. 354758

LC No. 20-143270-AW

Thomas C. Cameron
Presiding Judge

Karen M. Fort Hood

Michael J. Riordan
Judges

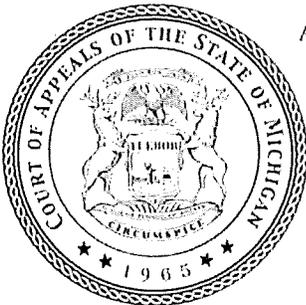
The motion for immediate consideration is GRANTED.

The motion to expedite is GRANTED. The Court accepts the answer to the motions filed September 10, 2020 and requires no further briefing. The Clerk of the Court is directed to submit the matter on the case call before this panel for decision without oral argument on September 10, 2020.

Pursuant to MCR 7.216(A)(7), the Court orders that the September 9, 2020 order denying plaintiff's request for a writ of mandamus is AFFIRMED. To obtain the extraordinary remedy of mandamus, a plaintiff has the burden of proving that "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016). Plaintiff did not have a clear legal right to have its proposed initiative to appear on the ballot and defendant did not have a clear legal duty to include the proposed initiative on the ballot. Plaintiff's proposed ballot language far exceeds the scope of MCL 333.27956(1), which allows individuals to "petition to initiate an ordinance to provide for the *number* of marihuana establishments allowed within a municipality" The circuit court did not abuse its discretion by denying plaintiff's request for mandamus relief.

The Court retains no further jurisdiction. This order is to have immediate effect. MCL 7.215(F)(2).


Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

September 11, 2020

Date

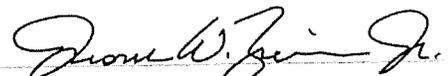

Chief Clerk

EXHIBIT I

VILLAGE OF PINCKNEY
ORDINANCE NO. 153

ORDINANCE AMENDING THE VILLAGE OF PINCKNEY CODE OF ORDINANCES BY AMENDING TITLE XV, LAND USAGE; CHAPTER 152, ZONING; § 152.045, ZONING DISTRICTS AND MAP, TABLE OF USES; § 152.182; SECONDARY BUSINESS DISTRICT, SPECIAL LAND USES; § 152.202; RESEARCH-TECHNOLOGY-OFFICE DISTRICT, SPECIAL LAND USES; § 152.241, SPECIAL LAND USES, PERMIT APPLICATION AND PROCESS; AND ADDING § 152.243 (S), ADULT USE MARIHUANA ESTABLISHMENTS, SPECIFIC APPROVAL CRITERIA, SPECIAL LAND USES

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. Section 152.045, *Table of Uses, Zoning Districts and Map*; Chapter 152, *Zoning*; Title XV, *Land Usage*, of the Village of Pinckney Code of Ordinances, is hereby amended by adding a rows to read as follows:

	SBD	RTO
Marihuana Grower Facility - Class A or B	S	S
Marihuana Grower Facility - Class C		S
Marihuana Microbusiness	S	S
Marihuana Processor Facility		S
Marihuana Retailer	S	S
Marihuana Safety Compliance Facility	S	S
Marihuana Secure Transporter Facility	S	S

Section 2. Section 152.182, *Special Land Uses, Secondary Business District*; Chapter 152, *Zoning*; Title XV, *Land Usage*, of the Village of Pinckney Code of Ordinances, is hereby amended by adding a new Subsection (Y) to read as follows:

(Y) Adult Use Marihuana Establishments including: Marihuana Grower Facility - Class A or B, Marihuana Microbusiness, Marihuana Retailer, Marihuana Safety Compliance Facility, and Marihuana Secure Transporter Facility, subject to the provision of Chapter 113, *Miscellaneous Businesses Requiring a License*; Title XI, *Business Regulations*, of the Village of Pinckney Code of Ordinances.

Section 3. Section 152.202, *Special Land Uses, Research-Technology-Office District*; Chapter 152, *Zoning*; Title XV, *Land Usage*, of the Village of Pinckney Code of Ordinances, is hereby amended by adding a new Subsection (M) to read as follows:

(M) Adult Use Marihuana Establishments including Marihuana Grower Class A, B or C, Marihuana Microbusiness, Marihuana Retailer, Marihuana Processor Facility, Marihuana Safety Compliance Facility, and Marihuana Secure Transporter Facility, subject to the provision of

Chapter 113, *Miscellaneous Businesses Requiring a License*; Title XI, *Business Regulations*, of the Village of Pinckney Code of Ordinances.

Section 4. Section 152.241, *Permit Application and Process, Special Land Uses*; Chapter 152, *Zoning*; Title XV, *Land Usage*, of the Village of Pinckney Code of Ordinances, Section (B) is hereby amended to read as follows:

(B) Process.

(2) Upon conclusion of the public hearing, the Planning Commission shall deny or approve, with or without conditions, or table for further consideration the special land use permit; or in the case of special land use permit applications for a marihuana establishment, residential open space development, condominium project, or other planned development, shall make a recommendation to the Village Council to deny or approve, with or without conditions, the special land use permit. If no decision or recommendation is made at the advertised hearing, disposition of the case must be set to a date certain at that time, and this date must be clearly stated in the meeting minutes. If no certain date is set and duly noted in the public record, notice of the next meeting at which the case will be considered shall be provided as required in division (B)(1) above. The Planning Commission shall make a decision or recommendation upon each case within 60 days of the public hearing, unless additional time is granted by the applicant.

(3) For special land use permit applications for a marihuana establishment, residential open space development, condominium project, or other planned development, a summary of the Planning Commission recommendation and comments submitted at the public hearing shall be transmitted with the special land use permit application and staff report to the Village Council. The Village Council may hold additional public hearings if it considers it necessary. The Village Council shall make a decision upon each case within 60 days of the Planning Commission's recommendation or refer the proposal back to the Planning Commission for further consideration, unless additional time is granted by the applicant.

Section 5. Section 152.243, *Specific Approval Criteria, Special Land Uses*; Chapter 152, *Zoning*; Title XV, *Land Usage*, of the Village of Pinckney Code of Ordinances, is hereby amended by adding a new Subsection (S) *Adult Use Marihuana Establishments* to read as follows:

(S) *Adult Use Marihuana Establishments.* A marihuana establishment, in compliance with the Michigan Regulation and Taxation of Marihuana Act, P.A. 2018, Initiated Law, being M.C.L.A. § 333.27951 et. seq., Chapter 113, *Miscellaneous Businesses Requiring a License*; Title XI, *Business Regulations*, of the Village of Pinckney Code of Ordinances, and the provisions of this subsection, shall be permitted as a special land use, in the SBD and/or RTO Districts as specified in Sections 152.045, 152.182, and 152.202.

Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act. Also, since federal law is not affected by that Act, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The state Regulation and Taxation of Marihuana

(11) *Water supply and sanitary sewerage facilities.* Waste disposal and water supply and disposal for the facility shall not produce contamination or create other hazards that may negatively impact the structure and/or surrounding properties and/or sanitary sewer system.

(12) *Off-street parking and loading.* The requirements for off-street parking and loading shall comply with the provisions of §§ 152.280 *et. seq.*

(13) *Signs.* Signs may not depict or reference marihuana or marihuana-related paraphernalia and shall comply with the provisions of §§ 152.300 *et. seq.*

(14) All other site development standards related to lot area, minimum lot width, yards and setbacks, lot coverage, and structure height shall comply with the zoning district in which the marihuana establishment is located.

Section 6. Section 152.267, *Definitions*, Chapter 152, *Zoning*; Title XV, *Land Usage*, of the Village of Pinckney Code of Ordinances, is hereby amended to add *Adult Use Marihuana Establishments* as follows:

ADULT USE MARIHUANA ESTABLISHMENTS.

MARIHUANA ESTABLISHMENT. A marihuana grower facility, marihuana microbusiness, marihuana processor facility, marihuana retailer, marihuana safety compliance facility, marihuana secure transporter facility, or any other type of marihuana-related business licensed by the Marihuana Regulatory Agency.

MARIHUANA GROWER. A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments (Class A, maximum of 100 plants; Class B, maximum of 500 plants; Class C, maximum of 2000 plants).

MARIHUANA-INFUSED PRODUCT. A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

MARIHUANA MICROBUSINESS. A person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

MARIHUANA PROCESSOR. A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

MARIHUANA RETAILER. 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. A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Act does not protect users, caregivers or the owners of properties on which the recreational or medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the federal Controlled Substances Act.

The following standards shall apply:

- (1) *Intent.* The purpose of this subsection is to regulate marihuana establishments and enforce safety, security, health, and sanitation practices related to such establishments.
- (2) *Prohibited uses.* Any marihuana establishment or marihuana event not specifically listed as a permitted business or event in Sections 152.045, 152.182, and 152.202 shall be prohibited within the Village of Pinckney.
- (3) *State license.* An application for a marihuana establishment special use permit and site plan approval shall not be accepted by the Village unless the applicant has received pre-qualification approval from the Michigan Regulatory Agency. The appropriate State License to conduct the business shall be provided to the Village prior to a certificate of occupancy being issued.
- (4) *Co-location and stacked licenses.* Co-location of marihuana establishments and/or licenses on one property is permitted subject to all applicable state laws, rules, and regulations concerning co-location and provided all uses are permitted within the property.
- (5) *Hours of operations.* Business hours for marihuana retailers shall be no earlier than 9:00 a.m. to no later than 9:00 p.m.
- (6) *Security.* All marihuana or marihuana infused products shall be contained within an enclosed, secure area. The establishment shall be open to any representative of the Village to inspect and examine all premises of the establishment. A Security Plan shall be submitted to the Village for review.
- (7) *Road frontage and access.* All vehicular access for marihuana establishments located in the SBD District shall be directly from M-36/Main Street.
- (8) *Separation distances.* The following separation distances from sensitive land uses shall apply to properties where the proposed marihuana establishment is to be located. Distance measurements shall be made between the closest property lines of the sensitive land use to the improved portion of the proposed land use.
 - (a) At least 1000 feet from a pre-existing public or private school, including preschools.
 - (b) At least 500 feet from a religious institution, licensed day-care facility, public parks, and trails.
- (9) *Enclosure and screening.* All uses shall be completely enclosed within a building and comply with §§ 152.385 *et. seq.* for landscaping and screening.
- (10) *Environmental performance.* No activities or uses shall result in the emission of glare, noise, vibration, odor, dust, pollution or any other negative impact, as regulated by §§ 152.370 *et. seq.* An Odor Control Plan shall be submitted to the Village for review.

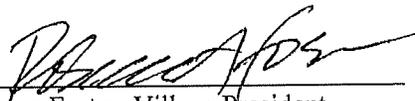
MARIHUANA SAFETY COMPLIANCE FACILITY. A person licensed to test marihuana, including certification for potency and the presence of contaminants.

Section 7. Repealer Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

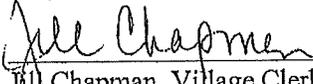
Section 8. Savings Clause. This Ordinance does not affect rights and duties matured, penalties that were incurred, and proceedings that were begun, before its effective date.

Section 9. 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 this Ordinance.

Section 10. Effective Date. This Ordinance shall be effective twenty (20) days from and after its publication.



Rebecca Foster, Village President



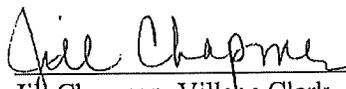
Jill Chapman, Village Clerk

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

Rebecca Foster, President	<u>✓</u>
Eirik Kauserud, Trustee	<u>✓</u>
Ted Kinczkowski, Trustee	<u>✓</u>
Linda Lavey, Trustee	<u>✓</u>
Brian Matson, Trustee	<u>✓</u>
Shawn Tibus, Trustee	<u>✓</u>
Robert Vedder, Trustee	<u>✓</u>

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 14th day of December, 2020.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 153 adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on Dec. 14, 2020.



Jill Chapman, Village Clerk

EXHIBIT J

VILLAGE OF PINCKNEY

ORDINANCE NO. 156

**ORDINANCE AMENDING THE VILLAGE OF PINCKNEY CODE OF ORDINANCES
BY AMENDING TITLE XV: LAND USAGE, CHAPTER 152, ZONING,
SECTION 15.041, ZONING MAP**

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. Title XV, Land Usage, Chapter 152, Zoning, of the Village of Pinckney Code of Ordinances, is hereby amended to conditionally modify the Official Zoning Map of the Village of Pinckney, as adopted in Section 152.041 thereof, as follows:

The property, commonly known as 935 W Main, Pinckney, Michigan, and hereinafter legally described, is rezoned from High Density Residential (R-3) to Research-Technology-Office District (RTO).

Parcels of land located in Section 27, Town 1 North, Range 4 East, Village of Pinckney, Livingston County, Michigan. Said parcels more particularly described as:

14-22-300-003 22 T1N R4E E 27 RDS OF THE NE 1/4 OF SW 1/4 S OF M -36, N OF MILL POND EXC COMM W 1/4 COR THE S 1225.88 FT TH E 2713.92 FT TO POB TH N71*47'W 52.50 FT TH S89*38'W 182.64 FT TH N75*04'W 146.59 FT TH S83*41'W 64 FT TH S5*26'30"E ABOUT 38 FT TO N BANK OF MILL POND TH ELY ALG EDGE OF POND AS IT WINDS AND TURNS ABOUT 450 FT TH N01*40"40"W ABOUT 28 FT TO POB. REDESCRIBED FROM DEED 6/18

14-22-401-153 SEC 22 T1N R4E, VILLAGE OF PINCKNEY HAZE'S ADDITION LOTS 27 28 29, AND 30 AND LOTS 33 TO 52 INCL. LOT 129 W 1/2 OF LOT 130 LOTS 19 20 21 22 EXC PART OF LOTS 19 21 22 27 28 29 30 33 & 130 AND PART OF STREETS PUTNAM MEAD AND REEVES OF HAZE'S ADDITION TO THE VILLAGE OF PINCKNEY DESC AS FOLLOWS BEG AT A PT ON LOT LINE AND THE PROPERTY LINE BETWEEN THE PINCKNEY COMMUNITY SCHOOL AND THE PINCKNEY CEMETERY S 18.58 FT FROM THE NE COR LOT 19 TH ALG LOT LINES AND PROPERTY LINE S 611.06 FT TH N54*36'W 251.89 FT TH N23*49'E 508.45 FT ALG R ANGLES TO M-36 TO POB. SPLIT 10-09 FROM 020

Section 2. Conditions. The rezoning of the property referenced in Section 1 of this Ordinance is strictly limited to the rezoning conditions proposed by the property owners as voluntary rezoning conditions under 2006 Public Act 110, being MCL 125.3405, as amended, as reflected in the attached "Statement of Conditions Agreement." In the event the property is used in a manner inconsistent with the uses and conditions under the attached "Statement of Conditions Agreement," and/or the Ordinance and statutory procedures for the conditional re-zoning of land are not complied with, the property shall be subject to reversion to the prior High Density Residential (R-3) zoning designations, as provided in 2006 Public Act 110, being MCL 125.3405, as amended.

Section 3. Repealer Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

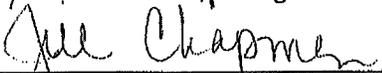
Section 4. Savings Clause. This Ordinance does not affect rights and duties matured, penalties that were incurred, and proceedings that were begun, before its effective date.

Section 5. 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 this Ordinance.

Section 6. Effective Date. This Ordinance shall be effective twenty (20) days from and after its publication.



Rebecca Foster, Village President



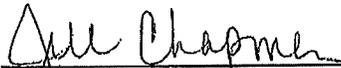
Jill Chapman, Village Clerk

Village Council Member Vedder offered the foregoing Ordinance and moved its adoption. The motion was seconded by Village Council Member Kinczkowski, 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	Abs
Robert Vedder, Trustee	✓

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 8th day of February, 2021

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 156 adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on February 8, 2021.



Jill Chapman, Village Clerk

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

JOBS FOR PINCKNEY, a ballot question committee,
LIBERTY WELLNESS, LLC, and J LEAF, LLC,

Plaintiffs/Counter-Defendants,

Case No. 21-31027-CZ

v

Hon. L. Suzanne Geddis

VILLAGE OF PINCKNEY,

Defendant/Counter-Plaintiff.

Robert Baldori (P40044)
Marcus Baldori (P83138)
BALDORI & ASSOCIATES
Attorneys for Plaintiffs/Counter-Defendants
2719 Mt. Hope Road
Okemos, MI 48864
(517) 927-7928
baldorim@gmail.com

David G. Stoker (P24959)
Timothy M. Perrone (P37940)
COHL, STOKER & TOSKEY, P.C.
Attorneys for Defendant/Counter-Plaintiff
601 N. Capitol Ave.
Lansing, MI 48933
(517) 372-9000
dstoker@cstmlaw.com
tperrone@cstmlaw.com

James Giddings (P13960)
Attorney for Plaintiffs/Counter-Defendants
6000 Lounsbury Road
Williamston, MI 48895
(517) 449-6952
jrgiddingslaw@gmail.com

AFFIDAVIT OF JILL CHAPMAN

I, Jill Chapman, Pinckney Village Clerk, being first duly sworn, depose and say:

1. I am the Village Clerk for the Village of Pinckney. I make this Affidavit in support of Defendant's Answer and Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction. The statements contained in this Affidavit are true to the best of my personal

knowledge. If sworn as a witness, I am competent to testify to the truth of the matters asserted.

2. On November 23, 2020, the Pinckney Village Council adopted Ordinance No. 151, an Ordinance to Incorporate Provisions Approved by the Electorate in the Pinckney Code of Ordinances. (See November 23, 2020 Pinckney Village Council Minutes, attached as Exhibit 1, and incorporated by reference.) This action constituted the codification of the Jobs for Pinckney initiated ordinance. (See Defendant's Exhibit C.)

3. Also on November 23, 2020, the Village Council adopted Ordinance No. 152, an Ordinance Amending the Village of Pinckney Code of Ordinances by Amending Title XI, Business Regulations, Chapter 113, Miscellaneous Businesses Requiring a License, 113.30 – 113.40, and Repealing Title XIII, General Offenses, Chapter 132, Crime, 132.140. (See Exhibit 1.) This action served to amend the Jobs for Pinckney initiated ordinance by repealing several sections of Ordinance No. 151, and providing regulations for the licensing of marihuana establishments in the Village. (See Defendant's Exhibit D.)

4. Also on November 23, 2020, the Village Council adopted a Resolution Approving a Temporary Marijuana Licensing Moratorium, which established a moratorium on accepting license applications or issuing licenses or permits for marihuana establishments, through April 1, 2021 at the latest. (See Defendant's Exhibit E.)

5. On December 14, 2020, the Village Council adopted Ordinance No. 153, which amended the Village Zoning Ordinance to address Adult Use Marijuana Establishments as a Special Land Use in the Secondary Business District (SBD) and the Research-Technology-Office District (RTO). (See Defendant's Exhibit I.)

6. On February 8, 2021, in response to an application for conditional rezoning, the Village Council adopted Ordinance No. 156, to rezone the property at 935 W. Main St., Pinckney, from High Density Residential (R-3) to RTO zoning. As set forth in the Statement of Conditions Agreement incorporated into the Ordinance, this conditional rezoning was for the purpose of using the property for a licensed marihuana establishment in accordance with (a) the amendments to the Village Code of Ordinance as adopted in Ordinance No. 152, (b) the amended Zoning regulations as adopted in Ordinance No. 153, and (c) the Michigan Taxation and Regulation of Marihuana Act. (See Ordinance No. 156 and Statement of Conditions Agreement, attached as Exhibit 2 and incorporated by reference.)

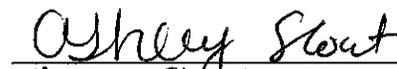
7. On March 8, 2021, the Village Council approved the 2021 Marijuana Establishment Licensing Documents, including Application forms, Scoring Rubric, and a Licensing Schedule, by which applications may be submitted for a 90-day period commencing April 1, 2021. (See March 8, 2021 Pinckney Village Council draft Minutes and approved 2021 Marijuana Establishment Licensing Documents, attached as Exhibit 3 and incorporated by reference.)


Jill Chapman, Pinckney Village Clerk

STATE OF MICHIGAN)
COUNTY OF LIVINGSTON)

Subscribed and sworn to before me, a Notary Public, this 10th day of March, 2021, by Jill Chapman, Pinckney Village Clerk.

ASHLEY SLOAT
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires 08-25-2027
Acting in the County of Livingston


Ashley Sloat, Notary Public
Livingston County, Michigan
Acting in Livingston County, Michigan
My Commission Expires: 08/25/2027

AFFIDAVIT EXHIBIT 1

**Village of Pinckney
Regular Council Meeting
November 23, 2020**

The President called the meeting to order remotely, using Microsoft Teams, at 7:04 pm on November 9, 2020.

ROLL CALL:

Present: Kinczkowski (joining from Village of Pinckney, Michigan), Lavey (joining from Village of Pinckney, Michigan), Matson (joining from Village of Pinckney, Michigan), Tibus (joining from Village of Pinckney, Michigan) and Foster (joining from Village of Pinckney, Michigan)

Also Present: M. Brunner (Zoning), J. Chapman (Clerk), E. Kauserud (Trustee Appointee), S. Mills (DPW), J. Newton (Police Chief), D. Stoker (Village Attorney), and B. Vedder (Trustee Appointee)

PLEDGE OF ALLEGIANCE

PUBLIC FORUM:

Foster opened Public Forum at 7:06 pm.
Sam Pernick, Jobs for Pinckney, expressed his disappointment in the Village of Pinckney.
Public Forum closed at 7:09 pm.

CONSENT AGENDA:

Motion by Kinczkowski to accept the Consent Agenda as presented; seconded by Lavey.
Yeas: Kinczkowski, Lavey, Matson, Tibus and Foster
Nays: None
Motion carried in a roll call vote.

PRESIDENT'S REPORT:

- Update on COVID - We've had one positive case on the police side. All are getting tested. No one actually sick.
- Staff is working remotely but someone is in the office each day.
- If anyone is having trouble accessing Teams, let me know.
- There will be changes to our agenda. We will add committee reports and committees will be expected to meet quarterly. There will no longer be a trustee forum.
- A meeting with Woodhill is expected regarding training staff and council members.
- There will be a public hearing on zoning at the December 7 planning commission meeting.
- The vote has been certified at the State level.

UNFINISHED BUSINESS:

- 1) Water Outside Village – Nothing going on with this.

- 2) IT and Website – Linda has offered her webmaster services. Need to get the RFP out. IT Committee meeting planned for next Monday at 6:00 p.m.
- 3) Investment Policy – Nothing new to report.
- 4) Fee Schedule – Listed as an agenda item but only for discussion.

AGENDA:

1) COUNCIL APPOINTMENTS

Foster appointed Vedder as Village Council Trustee, with a term ending in November, 2022; seconded by Kinczkowski.

Yeas: Kinczkowski, Lavey, Matson, Tibus and Foster

Nays: None

Motion carried in a roll call vote.

Foster appointed Kauserud as Village Council Trustee, with a term ending in November, 2022; seconded by Lavey.

Yeas: Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

Foster appointed Kinczkowski as President Pro Tem; seconded by Lavey.

Yeas: Kauserud, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

2) FEE SCHEDULE RATE STUDY

The connection fees were only figured out for sewer and still need to be done for water. Foster will check with Andy Clark on how he feels about the numbers.

3) RELIANCE PAY REQUEST

Motion by Kinczkowski to approve payment of \$297,458.46; seconded by Lavey.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

4) WOLVERINE INVOICES

Motion by Lavey to pay the entire batch of invoices submitted by Wolverine in the amount of \$19,904.00, including one in the amount of \$16,700.00, which will be paid out of USDA funds; seconded by Tibus.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

5) MARIJUANA ESTABLISHMENT ORDINANCE

Motion to adopt Ordinance No. 151, Ordinance to Incorporate Provisions Approved by the Electorate into the Pinckney Code of Ordinances, by Vedder; seconded by Tibus.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None
Motion carried in a roll call vote.

6) MARIJUANA ESTABLISHMENT ORDINANCE AMENDMENT
Council discussed some editing that was required of the amendment.

Motion by Lavey to adopt 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; seconded by Tibus.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

7) MARIJUANA MORATORIUM RESOLUTION

Motion by Kinczkowski to approve the Resolution Approving a Temporary Marijuana Licensing Moratorium; seconded by Matson.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

8) PUMP STATION UPDATE

The most recent meeting was held at the lift station site. Progress is being made but more time may be requested to complete the job. No formal change order for a revised schedule has been received as yet though.

PUBLIC FORUM

Public forum was opened at 7:48 p.m.

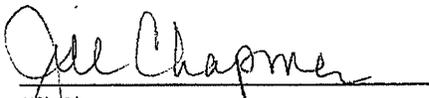
No one wished to speak.

Public form was closed at 7:48 p.m.

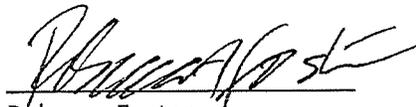
Meeting Adjourned at 7:48 pm.

December 14, 2020

Approval Date



Jill Chapman
Village Clerk



Rebecca Foster
Village President

AFFIDAVIT EXHIBIT 2

VILLAGE OF PINCKNEY

ORDINANCE NO. 156

**ORDINANCE AMENDING THE VILLAGE OF PINCKNEY CODE OF ORDINANCES
BY AMENDING TITLE XV: LAND USAGE, CHAPTER 152, ZONING,
SECTION 15.041, ZONING MAP**

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. Title XV, Land Usage, Chapter 152, Zoning, of the Village of Pinckney Code of Ordinances, is hereby amended to conditionally modify the Official Zoning Map of the Village of Pinckney, as adopted in Section 152.041 thereof, as follows:

The property, commonly known as 935 W Main, Pinckney, Michigan, and hereinafter legally described, is rezoned from High Density Residential (R-3) to Research-Technology-Office District (RTO).

Parcels of land located in Section 27, Town 1 North, Range 4 East, Village of Pinckney, Livingston County, Michigan. Said parcels more particularly described as:

14-22-300-003 22 T1N R4E E 27 RDS OF THE NE 1/4 OF SW 1/4 S OF M -36, N OF MILL POND EXC COMM W 1/4 COR THE S 1225.88 FT TH E 2713.92 FT TO POB TH N71*47'W 52.50 FT TH S89*38'W 182.64 FT TH N75*04'W 146.59 FT TH S83*41'W 64 FT TH S5*26'30"E ABOUT 38 FT TO N BANK OF MILL POND TH ELY ALG EDGE OF POND AS IT WINDS AND TURNS ABOUT 450 FT TH N01*40"40"W ABOUT 28 FT TO POB. REDESCRIBED FROM DEED 6/18

14-22-401-153 SEC 22 T1N R4E, VILLAGE OF PINCKNEY HAZE'S ADDITION LOTS 27 28 29, AND 30 AND LOTS 33 TO 52 INCL. LOT 129 W 1/2 OF LOT 130 LOTS 19 20 21 22 EXC PART OF LOTS 19 21 22 27 28 29 30 33 & 130 AND PART OF STREETS PUTNAM MEAD AND REEVES OF HAZE'S ADDITION TO THE VILLAGE OF PINCKNEY DESC AS FOLLOWS BEG AT A PT ON LOT LINE AND THE PROPERTY LINE BETWEEN THE PINCKNEY COMMUNITY SCHOOL AND THE PINCKNEY CEMETERY S 18.58 FT FROM THE NE COR LOT 19 TH ALG LOT LINES AND PROPERTY LINE S 611.06 FT TH N54*36"W 251.89 FT TH N23*49'E 508.45 FT ALG R ANGLES TO M-36 TO POB. SPLIT 10-09 FROM 020

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Section 3. Repealer Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

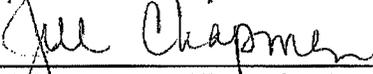
Section 4. Savings Clause. This Ordinance does not affect rights and duties matured, penalties that were incurred, and proceedings that were begun, before its effective date.

Section 5. 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 this Ordinance.

Section 6. Effective Date. This Ordinance shall be effective twenty (20) days from and after its publication.



Rebecca Foster, Village President



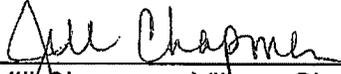
Jill Chapman, Village Clerk

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

Rebecca Foster, President	<u>✓</u>
Eirik Kauserud, Trustee	<u>✓</u>
Ted Kinczkowski, Trustee	<u>✓</u>
Linda E. Lavey, Trustee	<u>✓</u>
Brian Matson, Trustee	<u>✓</u>
Shawn Tibus, Trustee	<u>ABS</u>
Robert Vedder, Trustee	<u>✓</u>

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 8th day of February, 2021

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 156 adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on February 8, 2021.



Jill Chapman, Village Clerk

Statement of Conditions Agreement

This Conditional Re-zoning Statement of Conditions Agreement (the "Agreement") made effective this 9th day of February, 2021 by and between the Village of Pinckney (the "Village"), a Michigan Municipal Corporation with its offices at 220 South Howell Street, Pinckney, MI 48169, and ~~The Means M.A.A.B. Partnership, LLC of 5755 Long Point Dr, Howell, MI 48843~~ and Chris Bonk, 5755 Long Point Dr, Howell, MI 48843, (the "Property Owners"), agree as follows:

RECITALS

A. The Property Owners are currently the Owners of certain real property located in the Village of Pinckney located at 935 W Main, having the property identification numbers 4714-22-300-003 and 4714-22-401-153 more specifically described on Exhibit A, attached hereto (the "Property").

B. The Property is currently zoned High Density Residential (R-3) by the official zoning map of the Village.

C. The Property Owners desire to have the Property zoned Research-Technology-Office District (RTO) under the Village's zoning ordinance. This amendment to the official zoning map would allow the Property Owners to seek Zoning Special Use approval, Site Plan approval, and State and Village license approvals to operate a marihuana establishment. It is the intent of this Agreement, to allow the Property Owners the ability to establish such uses after obtaining a Zoning Permit, and complying the with design, special use permit, site plan approval, licensing approvals, and other requirements governing such uses under the adopted Zoning and land use code provisions of the Village, the Village Code of Ordinances, and the laws, ordinances, and regulations the County of Livingston and State of Michigan.

D. The Property Owners have voluntarily offered to enter into this Agreement consistent with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

E. This Agreement is made by the Village pursuant to authority granted to the Village under MCL 125.3405, as amended; and § 152.262(N) of the Village of Pinckney Code of Ordinances.

F. The Planning Commission of the Village has determined that, with appropriate conditions regarding the use and development of the Property contained herein, the requested Research-Technology-Office (RTO) zone is an appropriate land use change.

G. The Village, by action of its Village Council at a regular meeting held on the 8th day of February, 2021 has accepted the offer of the Property Owners to enter into this Agreement.

NOW THEREFORE, in consideration of these premises, the parties hereto agree as follows:

Section 1. RE-ZONING & CONDITIONS.

1.1 Re-zoning. At the request of the Property Owners, the Village shall rezone the Property from High Density Residential (R-3) to Research-Technology-Office District (RTO) as such terms are identified in the Village of Pinckney Zoning Ordinance. The following conditions shall apply to such Re-zoning.

1.2 Voluntary Conditions. The Property Owners voluntarily offer and consent to the following offered Re-zoning Conditions:

- a. The Property Owners will maintain the site as a Gateway to Pinckney with clean and well-maintained aesthetics.
- b. The Property Owners will maintain a residential look through architectural details on north side and north east side within view of traffic going by on M-36/Main St.
- c. The Property Owners will utilize innovative stormwater management (rain gardens, other natural options, etc.).
- d. The Owners agree that the purpose of this conditional rezoning is for marihuana-type establishments use only. If this use ends, the parcel will revert back to High Density Residential (R-3).
- e. The Property Owner will build pedestrian connections to increase accessibility to Mill Pond. Phase one will extend the sidewalk from M-36/Main St to rear of property with a sitting area overlooking Honey Creek/Mill Pond along the east side of the property. This pedestrian sidewalk and viewing area shall be contained within an easement dedicated to public use.

1.3 Use Limitations. The use of the Property shall be limited to the marihuana establishment special uses contained in the Research-Technology-Office District (RTO) [Pinckney Code Section 152.202(M)], as proposed by the Property Owners. The Property Owners must apply for and obtain Village approvals for the appropriate Special Use Permit and Site Plan as provided for in Pinckney Code [including Pinckney Code Sections 152.202(M), 152.241(B)(2), and 152.243(S)] and must apply for and receive the appropriate State and Village license approvals for the proposed marihuana

establishment in accordance with the Title XI, *Business Regulations*, Chapter 113, *Miscellaneous Businesses Requiring a License*, of the Code of Ordinances, Village of Pinckney §§113.30 - 113.44, as amended; the *Michigan Regulation and Taxation of Marihuana Act*, 2018 IL 1, MCL 333.27951 *et seq*; and the regulations and policies adopted under these State and Village laws and ordinances. It is understood that the proposed use shall also be contingent on complying with the size, design, approved special use permit, approved site plan, and other requirements governing such uses in the Village's RTO zoning district under the adopted zoning and land use code of the Village. It is further agreed that after the Conditional Re-zoning, the Property Owners shall comply with all of the requirements regulating the use and development within the new Research-Technology-Office District (RTO), as modified by any more restrictive requirements in the provisions contained in this Statement of Conditions Agreement.

1.4 Zoning District Reversion. In the event that this agreement terminates; the property is used in a manner inconsistent with the uses under subsection 1.3; the required State and Village licenses are not obtained and retained; and/or the special use and site plan approvals are not obtained and complied with as required under the Pinckney Zoning Ordinance; or in the event the approved use has been abandoned, as defined in the Pinckney Zoning Ordinance, the Re-zoning of the property shall revert to the High Density Residential (R-3), or its successor zoning district classification.

1.5 Validity of Uses. In the event that the Village of Pinckney Zoning Ordinance is amended such that the uses provided for in this Agreement for the Facility and/or Property are no longer permitted uses in the Research-Technology-Office District (RTO) District, the uses provided for in this Agreement shall be considered legally non-conforming and continuation of such use shall be governed by § 152.418 of the Village of Pinckney Zoning Ordinance.

Section 2. MISCELLANEOUS.

2.1 Effective Date. In accordance with MCL 125.3401 and the Village's Charter; the effective date of this Agreement and the Re-zoning Ordinance shall be twenty (20) days from and after its publication.

2.2 Severability. Should any section, clause or provision of this Agreement be declared unconstitutional, illegal, or of no force and effect by a court of competent jurisdiction, then and in that event such portion thereof shall not be deemed to affect the validity of any other part or portion of this ordinance and/or Agreement.

2.3 Agreement Running with the Land. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as long as it is in effect. The transfer of the Property shall not constitute a default under the Conditional Re-zoning Statement of Conditions Agreement. The provisions of this Agreement shall be deemed benefits and burdens which shall run with the Property.

2.4 Recording. This Agreement shall be recorded with the Livingston County Register of Deeds within thirty (30) days of the effective date.

2.5 Voluntary Offer. The Property Owners represent and warrant that they have voluntarily offered to enter into this Agreement and the Property Owners shall not commence any action after the date hereof against the Village asserting that it did not voluntarily offer to enter this Agreement.

2.6 Complete Statement of Conditions Agreement. This Statement of Conditions Agreement and the attached exhibit referenced herein constitutes the entire Agreement between the parties.

2.7 Signatures Authorized. The people signing this Statement of Conditions Agreement on behalf of the above-stated parties certify by their signatures that they are duly authorized to sign this Agreement on behalf of said parties and that this Agreement has been authorized by said parties.

2.8 Governing Law. This Statement of Conditions Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Michigan. Nothing contained herein shall be construed to limit or prohibit the Property Owners to petition or submit zoning applications and requests to the Village after the effective date of this Agreement.

THE UNDERSIGNED HAVE EXECUTED THIS CONDITIONAL RE-ZONING STATEMENT OF CONDITIONS AGREEMENT ON THE DATE SET FORTH ABOVE

WITNESS:

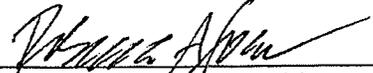
PROPERTY OWNER

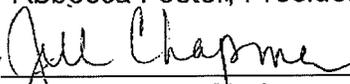
X The Maers M.A.B. Parlour, LLC ^{SLIP}

By Chris Bonk
Its:

By 
Chris Bonk

Village of Pinckney, a Michigan Municipal Corporation

By 
Rebecca Foster, President

By 
Jill Chapman, Clerk

ACKNOWLEDGEMENT

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

On this 9 day of February, 2021, before me personally appeared Chris Bond, to me known, who, being by me duly sworn, did say that he is the manager member of the The Means MAB Partnership LLC, and that the foregoing document was executed on behalf of said company, by authority of its governing body, and he acknowledges said instrument to be a free act and deed of said corporation.,

ASHLEY SLOAT
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires 08-25-2027
Acting in the County of Livingston Co.

Ashley Sloat
_____, Notary Public
Livingston County, Michigan
Acting in the County of Livingston
My Commission Expires:

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

On this 9 day of February, 2021, before me personally appeared Rebecca Foster, President, and Jill Chapman, Clerk, of the Village of Pinckney, to me known, who, being by me duly sworn, did say that the foregoing document was executed on behalf of said Village, by authority of its governing body Village Council, and they acknowledged said instrument to be a free act and deed of said Village.,

Ashley Sloat
_____, Notary Public
Livingston County, Michigan
Acting in the County of Livingston
My Commission Expires:

PREPARED BY:

David G. Stoker
COHL, STOKER & TOSKEY, P.C.
601 North Capitol Avenue
Lansing, Michigan 48933

ASHLEY SLOAT
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires 08-25-2027
Acting in the County of Livingston Co

When recorded return to:
The Village of Pinckney
220 South Howell Street
Pinckney, Michigan 48169

EXHIBIT A**Legal Descriptions**

14-22-300-003 22 T1N R4E E 27 RDS OF THE NE 1/4 OF SW 1/4 S OF M -36, N OF MILL POND EXC COMM W 1/4 COR THE S 1225.88 FT TH E 2713.92 FT TO POB TH N71*47'W 52.50 FT TH S89*38'W 182.64 FT TH N75*04'W 146.59 FT TH S83*41'W 64 FT TH S5*26'30"E ABOUT 38 FT TO N BANK OF MILL POND TH ELY ALG EDGE OF POND AS IT WINDS AND TURNS ABOUT 450 FT TH N01*40"40"W ABOUT 28 FT TO POB. REDESCRIBED FROM DEED 6/18

14-22-401-153 SEC 22 T1N R4E, VILLAGE OF PINCKNEY HAZE'S ADDITION LOTS 27 28 29, AND 30 AND LOTS 33 TO 52 INCL. LOT 129 W 1/2 OF LOT 130 LOTS 19 20 21 22 EXC PART OF LOTS 19 21 22 27 28 29 30 33 & 130 AND PART OF STREETS PUTNAM MEAD AND REEVES OF HAZE'S ADDITION TO THE VILLAGE OF PINCKNEY DESC AS FOLLOWS BEG AT A PT ON LOT LINE AND THE PROPERTY LINE BETWEEN THE PINCKNEY COMMUNITY SCHOOL AND THE PINCKNEY CEMETERY S 18.58 FT FROM THE NE COR LOT 19 TH ALG LOT LINES AND PROPERTY LINE S 611.06 FT TH N54*36'W 251.89 FT TH N23*49'E 508.45 FT ALG R ANGLES TO M-36 TO POB. SPLIT 10-09 FROM 020

AFFIDAVIT EXHIBIT 3

**Village of Pinckney
Regular Council Meeting
March 8, 2021**

The President called the meeting to order remotely, using Microsoft Teams, at 7:01 pm on March 8, 2021.

ROLL CALL:

Present: Kauserud (joining from Village of Pinckney, Michigan), Kinczkowski (joining from Village of Pinckney, Michigan), Lavey (joining from Village of Pinckney, Michigan), Matson (joining from Curtis, Michigan), Tibus (joining from Venice, Florida), Vedder (joining from Village of Pinckney, Michigan) and Foster (joining from Village of Pinckney, Michigan)

Also Present: J. Chapman (Clerk), S. Mills (DPW), J. Newton (Police Chief) and D. Stoker (Village Attorney)

PLEDGE OF ALLEGIANCE

PUBLIC FORUM:

Public Forum was opened at 7:03 p.m.

Mike Bahoura, attorney, asked if there would be an opportunity at the end of the meeting to ask questions. He was informed there is another public forum after all agenda items have been discussed.

Public Forum closed at 7:04 p.m.

CONSENT AGENDA:

Under the marijuana discussion in the minutes, it states that site plan review is part C of the application but it's not. Motion by Lavey to accept the Consent Agenda with the corrections as indicated; seconded by Kinczkowski.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

PRESIDENT'S REPORT:

DDA has offered funding of up to \$10,000 and Foster made a pitch to Consumers Energy's "Put Your Town on the Map" competition. We have made the cut and are in the top ten of the finalists. Awards are \$25,000 for first place, \$15,000 for second place and \$10,000 for third place. Video due April 13, winners announced April 14. Meeting is scheduled for Tuesday, March 9, at the site at 5:00.

Interviewed candidates for both zoning and accounting positions and may be re-posting those positions.

We can extend the current Emergency Order revisions to the OMA. Local authorities can issue emergency orders to extend remote meetings. Our attorney assures us that we can do this, especially since we don't have room in Council chambers to admit more than two members of the public. We'll have to do a Resolution at our next meeting to be ahead of the March 31 expiration date of the current Order.

Zoom court date on March 18 regarding the marijuana litigation at 1:30 p.m. Plaintiff has changed attorneys.

COMMITTEE REPORTS:

Personnel already covered.

Sewer and Water gets covered under pump station update.

Street and Sidewalk meets Wednesday.

IT covered on agenda.

UNFINISHED BUSINESS:

Woodhill will take care of this during the budgeting process.

AGENDA:

1) MICHIGAN CLASS PRESENTATION

Kristin Angel gave an overview of the investment program, it's features and benefits while allowing Council members to ask questions along the way.

2) EDC CONTRACT

Motion by Kinczkowski to continue on the contract; seconded by Lavey.

Yeas: Kauserud, Kinczkowski, Lavey, Tibus and Foster

Nays: Matson, Vedder

Motion carried in a roll call vote.

3) IT SUPPORT SERVICES PROPOSAL

Motion by Kinczkowski to give approval to sign once the contract has been reviewed; seconded by Matson.

Yeas: Kauserud, Kinczkowski, Matson, Tibus, Vedder and Foster

Nays: Lavey

Motion carried in a roll call vote.

4) MANN STREET PAYMENT

Motion by Vedder to pay \$7,200.27; seconded by Lavey.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

5) MARIJUANA APPLICATION FINAL DOCUMENTS

Motion by Matson to adopt Applications part A and B plus the Scoring Rubric; seconded by Kinczkowski.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster

Nays: None

Motion carried in a roll call vote.

6) LIVINGSTON COUNTY PLANNING AS INTERIM ZONING ADMINISTRATOR

Motion by Vedder to go ahead and contract with Livingston County Planning as interim zoning administrator; seconded by Matson.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus, Vedder and Foster
Nays: None
Motion carried in a roll call vote.

7) VILLAGE TAXES VIA PUTNAM TOWNSHIP

Motion was made by Lavey to approve three-year term and the corrections that Tim made; seconded by Kinczkowski.

Yeas: Kauserud, Kinczkowski, Lavey, Matson, Tibus and Foster
Nays: Vedder
Motion carried in a roll call vote.

8) PUMP STATION UPDATE

There is a building. Brand new pumps. Meeting held last week with Reliance and their subcontractors. They are thinking the first week in April for start-up. April 16 substantial completion date is still holding. Electrical panels were starting to go up.

PUBLIC FORUM

Public forum was opened at 8:28 p.m.

Mike Bahoura, an attorney, will be submitting an application for a client. Had some questions and was told he should email them so we can put them on our website.

Public forum was closed at 8:32 p.m.

Meeting Adjourned at 8:32 pm.

Approval Date

Jill Chapman
Village Clerk

Rebecca Foster
Village President



Village of Pinckney
Marijuana Establishment Licensing Schedule
2021

All questions must be submitted via email to clerk@villageofpinckney.org.

Application materials delivered to drop box outside village hall will be time and date stamped the following business day. Applications arriving via mail will be time/date stamped upon receipt.

April 1: application period opens for 90 days.

1. No application materials, - including site plans, special use permits and application forms - will be accepted prior to April 1 2021.
2. There will be no exceptions to deadlines.
3. No special meetings will be scheduled unless the Village deems it necessary due to volume of applications or other contributing factors.
4. All applications require special use permit approval before they are considered complete. Preliminary site plans are required submittals as part of the special use permit application but may not be completely reviewed and approved at the same time.

April 19: Deadline to submit special use permit applications for consideration at the May 3 Planning Commission meeting.

May 23: Deadline to submit special use permit applications for consideration at the June 7 Planning Commission meeting. Incomplete – but not formally rejected - applications from the May 1 meeting can be corrected and resubmitted for the June 7 meeting. Formally rejected applicants cannot re-submit for a year, per local ordinance.

June 14 and/or June 28: Special use permits recommended by Planning Commission will be considered by Village Council.

June 30: application window closes 4 pm (EOB for village hall)

July 1: application review and scoring period opens for 90 days (per Pinckney marijuana ordinance)

September 29: application review and scoring period ends at 4 pm (EOB)

September 30: License recipients notified.



VILLAGE OF PINCKNEY
Recreational Use Adult Marihuana Business Provisional License
Application Part A
APPLICATION FOR SPECIAL USE PERMIT

Please refer to Village of Pinckney Ordinances, Special Use
 (Zoning Ordinance Chapter 152.240-152.243 and associated sections and requirements)

Case # _____ Fee _____

Applicant _____ Phone _____

Address _____

Email _____

The above-named applicant(s) hereby request of the Planning Commission, in accordance with the Village of Pinckney Zoning Ordinance, Section 152.240 – 152.243, a special use permit for the property located at:

Address _____

Plat _____

Lot _____

Tax Code # _____

****Attach Legal Description****

Previous Requests

A previous request _____ has or _____ has not been made with respect to this property.

Date of previous request _____ Decision of previous request _____

Current Request

The request is for (please be specific)

With regard to the above request, I (We) apply for the following specific decision: (Please refer to Section 152.240 – 152.243 of the Village of Pinckney’s Zoning Ordinance):

I (We) authorize _____ to act as my (our) authorized agent in the hearing on my (our) request (Please attach any supplementary information on your appeal.)

Signature of Applicant: _____



Village of Pinckney

Recreational Adult Use Marihuana Business Provisional License Application Part B

Introduction:

Provisional and final permitting of Marihuana Businesses in the Village of Pinckney is governed by the procedures detailed in the Village of Pinckney Ordinance Code; Marihuana Establishments (“Ordinance”) and may be viewed at <https://villageofpinckney.org/ordinances>. Pursuant to this Ordinance, the Village Clerk is required to review and score complete applications based upon a rigid scoring system. Applicants should familiarize themselves with the required scoring criteria, as this Application and all documents submitted therewith will be considered by the Village Clerk in scoring the Application. In scoring the Application, the Village Clerk will only consider information and documents submitted with this Application. No late applications will be accepted or considered. In addition to the licensing requirements, Marihuana Businesses must also comply with applicable Village of Pinckney Zoning ordinances. The Village has the right, but not the obligation, to make any adjustments to this Application prior to the Initial Application Period required by, or recommended for, compliance with changes in the Michigan Regulation and Taxation of Marihuana Act, IL 1 of 2018, MCL 333.27951, *et seq.* (“MRTMA”) and its corresponding rules and regulations.

The decision of the Village is final. It is the intention of the Village to select only applicants that have not only provided all required application materials and met all criteria required by the Ordinance and by MRTMA, but to select applicants that will, in the sole and absolute discretion of the Village, make the best community partners by demonstrating an established history of positive community partnerships, economic development, corporate responsibility and regulatory compliance that are best suited to operate in compliance with MRTMA within the Village of Pinckney. If, in the sole and exclusive opinion of the Village, no Applicants meet the rigorous criteria set forth by the Village, the Village is not obligated to issue any provisional permits.

By submitting an application for a Marihuana Business to the Village of Pinckney, the Applicant and all of its owners acknowledge that the Village is solely, exclusively and uniquely qualified and authorized to make a determination as to whether an Applicant is best suited to operate in compliance with MRTMA within the Village of Pinckney. Applicant and all of its owners further acknowledge that the submission of an application for a land use permit is not, and does not confer, any property right or standing.

All words and phrases used in this Application shall have the definitions ascribed to them in MRTMA and the Ordinance. No additional or supplemental materials will be accepted. Four (4) hard copies of the Application and one copy of the Application in digital form is required for each submission.

APPLICATION PERIOD: April 1, 2021 through June 30, 2021

Documents That Must Be Submitted with Application:

In addition to the information requested on the Application itself, a list of documents and required submissions that are required in order for an Application to be considered complete are listed in a checklist in Part V of this Application. Blurry, illegible, expired, invalid, or poor quality copies will not be accepted.

I. APPLICANT INFORMATION

For Applicant that is an Entity:

Business Name: _____

Assumed Name(s): _____

Registered Address: _____

Phone Number: _____ Website: _____

E-mail: _____ EIN #: _____

Emergency Contact: _____ Phone: _____

For all Stakeholders of the above-named Applicant, attach a page that includes the following: Full name, residential address, phone number, e-mail, date of birth and SS#.

For Applicants that are individuals:

Full Legal Name: _____

Date of Birth: _____ Social Security #: _____

Phone Number: _____ E-mail: _____

Residential Address: _____

Emergency Contact: _____ Phone: _____

II. PROPOSED MARIJUANA ESTABLISHMENT TYPE

A separate application and fees must be submitted for each establishment type and for each location.

Retailer Processor Secure Transporter Safety Compliance Microbusiness

Grower – Class A Grower – Class B Grower – Class C

III. PROPOSED BUSINESS ESTABLISHMENT LOCATION INFORMATION

Property Address: _____

Parcel Tax ID No.: _____ Zoning: _____

Legal Description: _____

Applicant's Legal Interest in the Property: _____

Property Owner: _____

Property Owner Mailing Address: _____

Telephone: _____ E-mail: _____

IV. PERSON COMPLETING APPLICATION (if different from applicant)

Name: _____ Phone: _____

Address: _____

E-mail: _____ Affiliation with Applicant: _____

V. CHECKLIST OF REQUIRED APPLICATION MATERIALS

- A. Fully completed and executed Application with all documents required herein.
- B. \$5,000.00 non-refundable application fee payable to the Village of Pinckney (certified check).
- C. Copy of the Special Use Permit recommended by the Village of Pinckney Planning Commission, and approved by the Village of Pinckney Village Council, and any and all municipal permits or approvals needed for the Marihuana Establishment.
- D. If the Applicant is an entity, a copy of the entity's filed Articles of Incorporation, Articles of Organization, Partnership Agreement, and other applicable organizational documents, including a copy of the Applicant's EIN Confirmation Letter and a Good Standing Certificate issued by the Corporations Division of the State of Michigan within the past ninety (90) days.
- E. A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's building) per Village ordinance 152.243 (S)(8).

- F. Documentation of ownership, lease agreement, or other legal interest in the Property authorizing the Applicant to apply for a permit on the Property, along with a property owner affidavit.
- G. A preliminary site plan of the proposed Marihuana Business facility, detailing the location of basic security features, entrances and exits, dimensions, and proposed layout of the Business Facility Address. This shall include the square footage of the Business Facility Address and the location of any shared walls, bathrooms, doors, air ventilation systems, or facilities with non-marihuana businesses and the location of any Business Facility Adjacent Addresses. The Applicant shall note if it is applying to be a vertically integrated facility by noting other license types that they are applying for at the Business Facility Address.
- H. Documentation that the Applicant has received a state operating license pursuant to the Michigan Marihuana Facilities Licensing Act or Michigan Regulation and Taxation of Marihuana Act, or that the Applicant has received pre-qualification approval from the Michigan Marihuana Regulatory Agency.
- I. 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 ownership structure of the establishment, including percentage ownership of each person or entity and documentation supporting such ownership;
 - 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);
 - Community outreach/education plans and strategies.
- J. A written description of the training and education that the Applicant will provide to all employees, including planned continuing education for existing employees, and a written description of the method(s) for record retention of all training provided to existing and former employees.
- K. 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.
- L. A security plan for the facility that demonstrates the Applicant's ability to meet or exceed the requirements of MRTMA and includes, but is not limited to, a detailed description of, and location placement of, any security lighting, alarms and alarm systems, barriers, monitoring devices and systems and / or security guard services, video surveillance, digital archiving, and a plan to reduce the impact of any enhanced security measures on the surrounding parcels.
- M. A wastewater treatment plan that demonstrates the Applicant's ability to prevent wastewater from being released or discharged from the facility, which may include plans for zero discharge, recycling, collecting, storing or treating water used at the facility, and which shall include the specifications for any equipment proposed to be used in this process.

- N. A signed acknowledgment that the applicant is aware of and understands that all matters related to marihuana 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.
- O. A written description of 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.
- P. If Applicant is an entity, a resolution authorizing the signatory to this Application to sign and submit the Application.

VI. CERTIFICATION

STATE OF _____

-ss-

COUNTY OF _____

I, the undersigned, swear under oath that, I have the authority to sign this Application on behalf of myself or the above-named entity. I have read all the above answers and reviewed the supporting documentation, and such are true and correct to the best of my knowledge and belief.

Signature: _____

Name & Title: _____

Date: _____

NOTARY PUBLIC

On the ___ day of _____, 20___, before me personally appeared _____ and made oath that s/he has read the foregoing and that the same is true of his/her own knowledge, except as to the matters which are therein stated to be upon his/her information and belief, and as to those matters, s/he believes them to be true.

Signature: _____

Printed name: _____

Expires: _____

VII. ACKNOWLEDGEMENTS

This Application form has been approved for use by the Village Council, and no other form of application is acceptable. Each license and each license type must be submitted separately with a separate non-refundable fee.

Four (4) hard copies with original signatures and one (1) digital copy on a USB drive of the complete, signed application with all attachments must be submitted no later than 4:00 pm EDT on June 30, 2021. Late applications, amended applications, and supplemental information will not be accepted. Incomplete applications will not be eligible for scoring. The determination of whether the application is complete is at the sole and exclusive discretion of the Pinckney Village Clerk. Any questions regarding this Application or the Ordinance must be submitted in writing to the Clerk's office and all responses will be published on the Village website. Questions submitted by any other method will not be answered.

By signing this Application, the Named Applicant and all owners or representatives of the Named Applicant acknowledge, agree, and consent to the following:

Signatory
Initials

The Village of Pinckney is authorized, through its agents or employees, to seek information and conduct an investigation to verify the statements and information in and attached to this Application.

Signatory
Initials

Applicant understands that if all required materials are not received by the Village by the deadline as set forth on the Application, the Applicant's application will be automatically denied and will not be scored.

Signatory
Initials

The Village of Pinckney ordinance, application and scoring rubric meet all of the requirements for a merit-based application process pursuant to 2018 IL 1, MCL 333.27951, *et seq.*, commonly known as the Michigan Regulation and Taxation of Marihuana Act ("MRTMA"), and that the Village is basing, and will base, its decision(s) on which applicants receive a license based on its sole and exclusive opinion as to which applicants best show they are suited to operate in compliance with MRTMA within the Village of Pinckney.

Signatory
Initials

That the decision of the Village of Pinckney is final, and that one (1) request for Administrative review of the Village's decision regarding an Application by the Named Applicant is the sole relief and remedy available for challenging a Village decision on this Application, and must be requested in writing to the Clerk within thirty (30) days of the announcement and communication to the applicants of the results of the application process.

Signatory
Initials

Applicant hereby verifies that all property taxes and assessments for the proposed facility location are current and not delinquent, and acknowledges that if this certification is false, that this Application will be denied.

Signatory
Initials

That the submission of this Application and the signing of this Application by the Named Applicant constitutes a waiver of the exemption from Freedom of Information Act disclosure of the application documents under the MRTMA (MCL 333.2727959(7)).

Signatory
Initials

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.

Signatory
Initials

That the Ordinance, the Application and the Scoring Rubric adopted by the Village are not unreasonably impracticable and do not in any way conflict with MRTMA.

Signatory
Initials

That I understand that any attempt to communicate with the Village during the Application approval process other than by official Village e-mail addressed to the Village Clerk will result in my Application being disqualified from the permitting process.

Signatory
Initials

Applicant hereby verifies that neither the Applicant nor any of its Stakeholders or its Landlord, if applicable, is employed by the Village, acts as a consultant for the Village, or acts as an advisor to the Village, or is or was involved in any way in the implementation, administration or enforcement of this Ordinance.

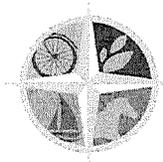
Return completed application & \$5,000.00 application fee to:

Village Clerk's Office – Village of Pinckney
220 S. Howell
Pinckney, MI 48169

Further information or questions must be submitted via email to the clerk and will be posted, along with any answers, on the village website at www.villageofpinckney.org.

Village Clerk's Office
clerk@villageofpinckney.org





Village of Pinckney

Recreational Adult Use Marihuana Business Provisional Application Part B SCORING RUBRIC

Conditions Precedent to Qualify for Scoring:

Applicant shall:

- Have either a valid and unexpired MMFLA or MRTMA License or unexpired MRTMA Prequalification.
- Submit a complete and timely application, signed, with all supporting documentation (4 originals and 1 USB).
- Submit a non-refundable fee of \$5,000.00 in the form of a certified check.
- Present a valid and unexpired marijuana Special Use Permit granted by the Village of Pinckney
- Show that proposed facility location falls within applicable Zoning without the need for rezoning or variance.
- Show that Applicant either owns the proposed facility location or provide a lease or other binding agreement and a property owner affidavit.

Applicants must score at least 70 points to be considered for a village license.

Scoring Elements	Points	Notes
1. Licenses (15 possible points)		
<i>One of the following:</i>		
Applicant possesses a MRTMA or MMFLA state operating license of the same type applied for in this Application	10	
Applicant possesses MRTMA prequalification	5	
	15	
2. Completeness (10 points)	10	
Whether the Applicant has provided full and complete answers to each question and has provided sufficient documentation to support each answer. Includes presentation and professionalism.		
	10	
3. Business Plan (10 possible points)		
One point for each total year of combined business management experience by stakeholders (maximum 3)	3	
Completeness of Business Plan.	1	
Planned tangible capital investment in the Village, economic benefits to the Village, with supporting factual data on Applicant's history of job creation or that of its Stakeholders.	3	
Proof of funds to establish Applicant's ability to develop and carry out its Business Plan.	1	
Community Outreach and Education Plan.	2	
	10	
4. Facility and Sanitation Plan (5 points)	5	
5. Safety and Security Plan (5 points)	5	
6. Waste Water Plan (5 points)	5	

7. Commitment to Community (35 possible points)		
Attended the Ordinance and Application Workshop. (Must provide proof, and Village will verify)	2	
Applicant commits to hiring Livingston County contractors for work and improvements to its Proposed Facility. (Must show written agreement on letterhead of local contractor).	4	
Training and Education Plan, including planned continuing education and a description of the method(s) for record retention of all training provided.	2	
Applicant commits to a net zero impact on the environment at its Business location by providing comprehensive plans to use renewable energy and reduce its environmental impact to zero or as close to zero as possible through green business practices.	2	
At least 10% of Applicant owned by a resident of Livingston County	5	
At least 10% of Applicant owned by a resident of the Village of Pinckney	10	
Operated a business in good standing in a Michigan municipality with a population under 10,000.	5	
One of the following:		
If the proposed Facility Address consists of vacant commercially viable structures that are distressed, blighted, or require significant additional investment.	5	
If the proposed Facility Address consists of currently occupied commercially viable structures that are distressed, blighted or require significant additional investment.	3	
If the proposed Facility Address consists of one or more vacant building(s) that are commercially viable structure(s) that are not distressed or blighted.	2	
If the proposed Facility Address is or consists of no commercially viable building structures, or is a Vacant Parcel.	1	
	35	
TOTAL	85	
TIE BREAKER A – 1 point The Applicant with the largest percentage of ownership currently residing in Michigan.	1	

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

**JOBS FOR PINCKNEY, a ballot question committee,
LIBERTY WELLNESS, LLC, and J LEAF, LLC,**
Plaintiff,

File No.: 21-31027-CZ
HON. SUZANNE GEDDIS

vs.

VILLAGE OF PINCKNEY,
Defendant.

Robert Baldori (P40044)
Marcus Baldori (P83138)
BALDORI & ASSOCIATES
Attorneys for Plaintiffs
2719 Mt. Hope Rd.
Okemos, MI 48864

David Stoker (P24959)
Timothy Perrone (P37940)
COHL, STOKER, & TOSKEY, P.C.
Attorneys for Defendant
601 N. Capitol Ave.
Lansing, MI 48933
517-372-9000

James Giddings (P13960)
Attorney for Plaintiffs
6000 Lounsbury Road
Williamston, Michigan 48895
517-449-6952
jrgiddingslaw@gmail.com

**PLAINTIFFS' REPLY TO DEFENDANT'S ANSWER TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Introduction

Plaintiffs, by and through counsel, Robert L. Baldori, Marcus Baldori and James R. Giddings reply to Defendant/Counter-Plaintiff, Village of Pinckney, Brief in Opposition to Plaintiffs/Counter-Defendants' Motion for Preliminary Injunction for the following reasons. First, in responding to Plaintiffs' Motion for Preliminary Injunction, Defendant totally ignores the stated purpose of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq (the "MRTMA"). In part, that provision, MCL 333.27952states:

The purpose of this act is to make marihuana legal under state and local law

for adults 21 years of age or older, to make industrial hemp legal under state and local law, and to control the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the businesses involved. . . . **To the fullest extent possible, this act shall be interpreted in accordance with the purpose and intent set forth in this section with the purpose and intent set forth in this section.** (Emphasis added.)

In evaluating the meaning of various provisions of the MRTMA, it is well to keep these stated purposes in mind. Notice that the act does not include any language encouraging a local municipality to make it as difficult as possible to secure a license under the act. That appears however, to be the purpose of Pinckney Village.

STATEMENT OF FACTS

Plaintiffs do not dispute the Statement of Facts set forth by Defendant, Counter-Plaintiff. Plaintiffs agree that following enactment of the MCL 333.27951 *et seq.* (the "MRTMA"), the Pinckney Village Council opted out by enacting Ordinance 145 prohibiting all statutorily-described marihuana establishments in the Village, as permitted under the MRTMA. (See copy of Ordinance 145, attached as Exhibit A, to Defendant's Answer to Preliminary Injunction Motion.) Defendant claims that somehow that freezes the status quo as far as Pinckney Village is concerned. It doesn't. First, Defendant fails to offer any proper caselaw in support of this proposition. Second, Defendant complains that the proposed initiated ordinance improperly sets forth a comprehensive administrative regulatory system for recreational marihuana, consisting of several pages addressing license applications, scoring procedures, social equity, community benefits, and numerous other detailed rules, regulations, procedures, and penalties.

Setting aside for the moment the Village's patent disregard of the purpose of MRTMA, Plaintiff incorporated a comprehensive system of regulation in the initiated

ordinance and did so appropriately. Defendant acted improperly in adopting Ordinance 152, which repealed most of Ordinance 151, and improperly adopted Resolution 2020-26, establishing a temporary moratorium. Plaintiff seeks declaratory judgment holding that Ordinance 152 exceeds the scope of a municipality's authority pursuant to the MRTMA, and therefore should be invalidated.

ARGUMENT

The Motion For Preliminary Injunction Should Be Granted

In considering the propriety of an injunction, Plaintiffs agree that this Court should consider the following factors: (1) the likelihood that the party seeking the injunction will prevail on the merits; (2) the danger that the party seeking the injunction will suffer irreparable injury if the injunction is not issued; (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief; and (4) the harm to the public interest if the injunction is issued.

Plaintiffs Have Established Grounds for Injunctive Relief

Plaintiffs' Motion for Preliminary Injunction is supported by the Affidavit of Samuel Pernik, attached as **Exhibit A**. That Affidavit has demonstrated irreparable harm resulting from the unlawful repeal of the initiated ordinance.

Plaintiffs Have a Substantial Likelihood of Success on the Merits

Defendant claims that the Jobs for Pinckney initiated ordinance exceeds the scope of an initiative under Sec. 6(1) of the MRTMA, MCL33.27956(1). Defendant fails to appreciate the import of section 6(1). That is apparently why it claims that the people through an initiatory petition may not include regulatory provisions. Without the slightest factual or

legal support, it repeats the same mantra throughout its argument. That is not true. When section 6(1) is read with care, it is apparent that the Village council and the voters of Pinckney enjoy identical enactive power, except for references to the required vote. Both the Village Council and the voters may adopt ordinances which regulate marihuana establishments in the Village.

Defendant has completely misread section 6(2), being MCL 333.27956(2), and appears to be under the impression that 6(2) constitutes some general grant of regulatory authority. It does no such thing. To the contrary, it is clearly intended to impose well defined restrictions on the power of municipalities in regulating marijuana operations -- consistent with the stated purpose of the MRTMA cited above. MCL 333.27956(2) states:

A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act and that:

- (a) establish reasonable restrictions on public signs related to marihuana establishments;
- (b) regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories;
- (c) authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
- (d) designate a violation of the ordinance and provide for a penalty for that violation by a marihuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than \$500.

As Michigan courts have long held, "the use of the conjunctive term 'and' reflects that both requirements must be met. " *Karaczewskiv Farbman Slein & Co*, 478 Mich 28, 33; 732 NW2d 56 (2007) (emphasis in original), overruled in part on other grounds *Bezeau v Palace Sports& Entertainment, Inc*, 487 Mich 455; 795 NW2d 797 (2010). The word "and" and the word "or" are not interchangeable and their strict meaning should be followed. *Auto-Owners Ins Co v Stenberg Bros. Inc*, 227 Mich App. 45, 50- 51; 575 NW2d 79 (1997) While

a municipality may put in place a regulatory framework consistent with the purpose of MRTMA, it may only adopt "other" ordinances which satisfy all the following criteria:

1. The ordinance is "not unreasonably impracticable;" and
2. The ordinance does "not conflict with [MRTMA] or with any rule promulgated pursuant to [MRTMA];" and
3. The ordinance must concern one or more of the issues stated in MCL 333.27956(2)(a)-(d).

These sections impose limits on the municipality -- not the electors. If voters initiate an ordinance under Section 6(1), the municipality must adopt that ordinance. and, further, it must act in conformance with Sections 6(2)-(4). It "may" adopt one of more of the foregoing restriction so long as a municipality does not violate any provision of the voter-initiated ordinance.

The Initiating Ordinance may Provide for a Regulatory Framework

Defendant asserts that the MRTMA only allows a ballot initiative petition to provide for the **number of marihuana establishments** allowed in the Village and that section 6(1) of the MRTMA, MCL 333.27956(1) does not empower electors to initiate an ordinance that would regulate such establishments arguing that the power to license and regulate marihuana establishments is reserved to the municipality, citing MCL 333.27956(2) - (4). But MCL 333.27956 makes no such statement and imposes no such limitation.

Section 6(1) of the MRTMA, MCL 333.27956(1), provides that " [i]ndividuals may petition to initiate an ordinance to provide for the Sec number of marihuana establishments allowed within a municipality or to completely prohibit marijuana establishments within a municipality. . . " It is self-evident that this Section allows voters to initiate an ordinance permitting a specified number of marijuana establishment, even when marijuana estalbihments

do not previously exist in a municipality. Not one word in the statute suggests that because the Village of Pinckney at an earlier time that the voters were prevented from subsequently initiating an ordinance that provides for marijuana establishments. The intent of the legislature was to provide voters with a path to initiate an ordinance allowing for marijuana facilities.

Defendant is correct that allowing voters to pass an initiative for marijuana facilities without any regulatory infrastructure would be nonsensical. The only reasonable interpretation of Section 6(1) is that an individual petitioner can initiate an ordinance for a certain number of marijuana establishments **and should they choose to do so, include the licensing and regulatory rules surrounding those establishments.** Defendant's narrow reading that the electors may initiate an ordinance solely as to the exact number of establishments makes little sense, as defendant acknowledges, and does not reflect the intent of the people in adopting the MRTMA.

Defendant's interpretation of MCL 333.27956(1), would lead to a disjointed process where the voter-initiated petition solely provides for the number of marijuana establishments, and then the municipality would be required to create and pass an additional ordinance providing the entire licensing and regulatory scheme surrounding those establishments. By adopting the Defendant's construction, a municipality opposed to adult use marijuana could simply refuse to adopt any provisions implemented by the electorate, thereby denying licenses to tentative applicants on the basis that no regulatory or licensing mechanism has been established. Defendant is correct that such an outcome at this cannot be the intended process under the MRTMA. An accurate reading of the MRTMA reveals that the process is actually intuitive and straightforward because voters can both initiate an ordinance providing for the number of marijuana establishments and provide the licensing and regulatory scheme as well.

The Cases Cited by Defendant Have no Bearing on the Validity of the Initiated Ordinance

Defendant has attached to its Brief, at Exhibits F, G and H rulings by the Michigan Court of Appeals which are supposed to support its claim that Plaintiff claim lacks merit. Those cases do no such thing. Specifically, cites three cases to support its thesis that the initiated ordinance may not contain regulatory features. See, *Farmington v Mullison*, Ct. App. docket 354743 (Unpubl. 2020), *Jobs for Oakland v Neeb*, Ct. App docket 354755 (unpubl. 2020), and *Jobs for Monroe v Monroe City Clerk*, Ct. App. docket 354758 (unpubl. 2020). (Exhibits F, G and H, attached to Defendant's Answer to Plaintiffs' Brief in Support of Preliminary Injunction). Any reliance Defendant places on these cases is seriously misplaced.

These three opinions may not properly be considered by this Court for three reasons. First, two of the holdings are dicta because of petitioner's untimely filing for mandamus. Second, not one of these opinions is published and thus, not one of them has any value as precedent. Third, and most importantly, each makes the same mistake. For over 100 years, Michigan courts have ruled that they will not make a pre-election determination of the validity of a ballot initiative because it interferes with the legislative function. Michigan appellate courts have repeatedly held that a substantive challenge to a proposed initiative is not proper until after the law is enacted. This rule was ignored by the Court of Appeals. See, *Coalition For Safer Detroit v Detroit City Clerk*, 295 Mich App 362; 820 NW2d 208 (2012).

Michigan Law does not permit Pinckney Township to Override an Initiated Ordinance adopted pursuant to MCL 333.27956(1)

Citing to McQuillin on Municipal Corporations, and solely non-Michigan authorities, Defendant argues that an initiated ordinance has no greater sanctity than legislation adopted by a city council, and may be amended by the city council. Not true. Here, Plaintiff brought its initiative petition pursuant to statute, being section 6(1) of the MRTMA, MCL 333.27956(1), which provides, in part:

Individuals may petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality, and such ordinances shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election.

Section 6(1) must be read in conjunction with Section 6(2) of the MRTMA, MCL 333.27956(2), which reads in part:

A municipality may adopt other ordinances that are not unreasonably impracticable and **do not conflict with this act** or with any rule promulgated pursuant to this act... (emphasis added)

In reading Section 6(1) with Section 6(2), it is clear that, in adopting Ordinance 152, the Village Council infringed upon electors' power of initiative granted in Section 6(1) and exceeded its authority granted under Section 6(2) by its wholesale rewriting of an ordinance adopted in violation of the restriction in section 6(2) that "other" ordinances may "not conflict with this act."

If a legislative body can merely repeal or completely rewrite an adopted initiative before said initiative even takes effective, the initiative power referenced within the MRTMA is rendered meaningless. Does the ballot question committee repeat its circulation of the initiative petition in the Village, securing enough signatures to have the ordinance placed on the ballot at the next May, August, or November general election, then capturing enough votes to have its ordinance passed a second time, perhaps even a third, only to have the local legislative body on each initiative override its ordinance again? Is that what the Michigan Legislature had in mind in adopting section 6(1)? Plaintiffs submit that Michigan Law does not permit such a course.

By analogy, this is precisely the type of abuse that the Michigan Supreme Court considered and found to be improper in another context. In *Michigan Farm Bureau v Sec'y of State*, 379 Mich 387, 394-395; 151 NW2d 797 (1967), the Michigan Supreme Court rejected an

interpretation of the referendum power in Const 1963, art 2, § 9 that would have allowed the Legislature to successively adopt and subsequently repeal a controversial daylight savings law in the spring and fall of every year in order to prevent citizens from being able to submit referendum petitions on said law. The Michigan Supreme Court concluded:

The construction claimed here by plaintiffs would permit outright legislative defeat, not just hindrance, of the people's reserved right to test, by referendary process, the exemption made by Act No 6 or any like immediate-effect exemption the legislature might enact come the showers of April each year hereafter. To be specific: With such construction announced judicially, the legislature would stand free to avoid effective referral of this and future legislative exemptions under aforesaid 3(a) simply by repealing Act No 6 next November, then by enacting another immediate-effect act of exemption next spring and then by another repeal in the late fall, and so on through the years.

The Court further held that it would not permit the Legislature to "thwart or "emasculate" those powers or "permit outright legislative defeat, not just hindrance, of the people's reserved" powers. *Id.* at 393-95.

Although not grounded in the Constitution, the authority granted by the Michigan Legislature permitting ordinance by initiative are no less important to the people of Pinckney Village. In *Michigan Farm Bureau*, the Court offered additional pertinent observations:

. . . [N]o court should so construe a clause or section of a constitution **as to impede or defeat its generally understood ends when another construction thereof, equally concordant with the words and sense of that clause or section, will guard and enforce those ends.** (Emphasis added.)

While *Michigan Farm Bureau* dealt with the powers reserved by the people unto themselves in the State's Constitution, this logic of the Michigan Supreme Court is compelling here where the question to be considered is whether the powers that the Legislature granted to Michigan citizens under the MRTMA are to have meaning or will they simply be emasculated through Pinckney Village's roughshod disregard of those granted powers.

We submit that this Court should not allow these powers to be thwarted or emasculated

by local legislative fiat. We also submit that Michigan electors should not be forced into an endless cycle of adopting statutorily approved and initiated ordinances only to be repeatedly blocked by a local village or township council. Given the policy represented by the Farm Bureau case which strongly suggests that the Michigan Supreme Court would not permit it, we submit that no such construction is available to this Court.

Even if Pinckney Village can amend the initiated ordinance, it exceeded its statutory authority in doing so. When interpreting the language of an initiative, the goal of a court is to "ascertain and give effect to the intent of the electorate "as reflected in the language of the law itself." *People v Kolanek*, 491 Mich 382, 397; 817 NW2d 528 (2012). Assuming for a moment that Defendant is correct the Plaintiff may not include the many provisions of the initiated ordinance which includes measures relating to qualifying applicant and oversight of adult use operations, it does not have the slightest effect on the validity of the initiated ordinance for two reasons. First, the initiated ordinance contains a severability clause which Defendant fails to mention in Section 15. Even if Defendant should prevail on its argument that some provisions of the initiated ordinance are not authorized under the MRTMA, the remaining provisions of the ordinance must be sustained.

It is beyond reasonable dispute that MCL 333.27956(1) permits an initiated ordinance to set the limits for "establishments" within the township. When Pinckney Village adopted the ordinance changing the limits set to by electors, it violated that provision. In conclusion, Plaintiffs have demonstrated a substantial likelihood of success on the merits of their claim for declaratory relief.

Plaintiffs Will Suffer Irreparable injury

Plaintiffs' injury is demonstrated by the Pernik Affidavit. See, **Exhibit 1**. Two of Plaintiffs' secured options to purchase property are in the Village in which they intend to

operate a marihuana establishment, relying on the "application window" in the initiated ordinance. Moreover, their loss is compounded by the Pinckney Village moratorium on the acceptance of applications. This appears to be nothing more than a thinly veiled attempt to resurrect the Village's prior prohibition. That conclusion is reinforced by reference to the Application form-Part B which instructs all potential applicants that the Village "is not obligated to issue any provisional permits." How does this square with the purpose of the MRTMA as stated in section 2'?

**The Harm to Plaintiff Outweighs Any Harm to Defendant
and No harm would be Imposed on Defendant if Injunction is Issued**

Plaintiffs agree with Defendant that in the exercise of its preliminary injunctive powers, the Court must weigh the relative harm to the plaintiff if the requested preliminary injunction is denied against the harm to the defendant if the relief is granted, *Niedzialek v Barbers Union*, 331 Mich 296; 49 NW2d 273 (195 I), as well as to the possible harm or inconvenience to the public, *Wyoming Twp v Stuart*, 158 Mich 60; 122 NW214 (1909). Without the slightest factual or legal support, Defendant claims that public interest because a municipality cannot have the application criteria and other regulatory provisions for marihuana establishments imposed upon it. Without the slightest factual support, Defendant claims that other applicants for marihuana establishments have acted in reliance on the Village's adoption of Ordinance 152. Even if true, that does not harm Defendant.

**Defendant Has Demonstrated No Basis For This Court To Issue A Declaratory
Judgment That The Initiated Ordinance Is Invalid**

The Village also seeks a declaratory ruling that the Pinckney Village Council is authorized by law to amend an ordinance initiated under MCL 333.27956(1). Plaintiff is not obligated to even answer Defendant's Counter-claim at this point in time and

Defendant's request embraces ultimate issues not ripe for decision by this Court. Until those impediments are removed, this Court should deny the request.

An Initiated Ordinance Can Apply in an Opt-Out Municipality

Defendant makes the silly and, frankly, unclear argument -- without factual or legal support -- that the MRTMA was not intended to authorize the voters to initiate an ordinance permitting marijuana establishments in a municipality in which they do not already exist. Where does it say that? Again, Defendant should read the clear and unequivocal purpose of the MRTMA in section 2:

The purpose of this act is to make marijuana legal under state and local law for adults 21 years of age or older, ... and to control the commercial production and distribution of marijuana under a system that licenses, regulates, and taxes the businesses involved.

Defendant says that allowing the voters to provide by ordinance for a number of marijuana establishments where none already exist is non-sensical because there would be no existing regulatory infrastructure to deal with the licensing, regulation and zoning issues that are necessary to accommodate an industry that is highly regulated by the State. That is precisely why it is incumbent on the electors or the governing authority of such municipality to establish such an infrastructure -- consistent with the policy enunciated in section 2 of the MRTMA.

The Initiated Ordinance is Entirely Consistent Michigan Regulator Scheme

Even if a petition to initiate an ordinance under Sec. 6(1) of the MRTMA were permitted after a municipality had opted out of allowing any marijuana establishments, Defendant criticizes the Jobs for Pinckney initiated ordinance as overly broad, because it set forth a comprehensive scheme for regulating such establishments, including license

applications, scoring procedures, social equity, community benefits, and numerous other detailed ml.es, regulations, procedures, and penalties. Really? Not to be repetitive, but Defendant again needs to review section 2 of MRTMA.

The Village Council is Authorized to Amend the Initiated Ordinance

Plaintiff agrees that the Village Council is authorized to adopt and amend ordinances, including ordinances pertaining to the licensing and regulation of marihuana establishments. But they may only do so in conformity with the MRTMA and MCL 333.27956(1) - (4). All Plaintiff is saying is that the Village Council .is constrained by Sec.6(2) of the MRTMA to adopt ordinances "that are not unreasonably impracticable and do not conflict with this act." Nowhere in the MRTMA or any other law is there any prohibition against the amendment of an initiated ordinance. The constraint in Sec. 6(2) pertains to substantive provisions of an ordinance that might conflict with the substantive licensing and regulatory requirements of the MRTMA or rules promulgated thereunder.

CONCLUSION AND RELIEF

For all of the foregoing reasons, Plaintiff respectfully requests that this Honorable Coult grant Plaintiffs' Motion for Preliminary Injunction, deny Defendant's request for Declaratory Judgment as it is premature.

Respectfully submitted,

James Giddings



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DATE: 3/12/2021

EXHIBIT A

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

**JOBS FOR PINCKNEY, a ballot question committee,
LIBERTY WELLNESS, LLC, and J LEAF, LLC,**
Plaintiff,

File No.: 21-31027-CZ
HON. SUZANNE GEDDIS

vs.

VILLAGE OF PINCKNEY,
Defendant.

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Marcus Baldori (P83138)
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AFFIDAVIT IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER

I Samuel Pernick do hereby swear and affirm that I am an authorized representative for Plaintiffs , and if called upon, I can competently testify to the following:

1. I am a representative for plaintiffs Jobs for Pinckney. Liberty Wellness, LLC and J Leaf, LLC.
2. I am personally familiar with the facts and circumstances indicated in the Brief in Support of Plaintiffs' Motion for Preliminary Injunction.

3. The initiated Ordinance No. 151, which was certified by the Michigan Board of Canvassers on November 23, 2020, included an initial application window that was to begin on December 4, 2020.
4. On November 23, 2020 the Village adopted Ordinance No. 152 which rewrote most of the ordinance and reduced available license types. The Village also enacted a moratorium on accepting license applications until March 2021.
5. Plaintiffs J Leaf and Liberty Wellness submitted applications to the Village on December, 24th 2020, which was within the application period specified in Ordinance 152 adopted by the electorate.
6. Susan Vasequez was advised by Defendant on December 28th that such applications would not be accepted due to the moratorium.
7. Judge Geddis's Judicial Assistant has indicated that the earliest date to schedule a hearing on Plaintiffs' Motion for Preliminary Injunction is March 18th, 2021.
8. Upon information and belief, the Village has indicated that it will open an application window under Ordinance 152 sometime in March or April.
9. As a result of the instant moratorium enacted by the Village, and postponement of the application acceptance window and timeline for license issuance, Liberty Wellness and J Leaf risk loss of its legal interest in real estate and may be required to fund additional monies in order to keep their purchase interest intact. The real estate is:
 - a. 1066 E M 36, Pinckney
 - b. 221 W Main, Pinckney
 - c. 851 E Main, Pinckney
 - d. 1268 E M 36, Pinckney
 - e. 1212 E M 36, Pinckney
10. The delay caused by the adoption of Ordinance 152 and the accompanying moratorium also puts Plaintiffs Liberty Wellness and J Leaf at a competitive disadvantage by delaying licensure, at a minimum, by months.
11. Furthermore, any action taken by the village in light of the existence of two competing ordinances that include different and conflicting rules and application procedures in regards to marijuana facilities is fundamentally confusing, would bring uncertainty to the application process and disrupt the process for all applicants.

12. The existence of two conflicting ordinances – given the uncertainty as to which will be upheld -- will cause irreparable harm not only to plaintiffs, but also to Pinckney Village because it can not be certain at this point how it can proceed without knowing which ordinance will ultimately be sustained.

13. Without immediate intervention by this Court, the result will be a confusing, chaotic and fundamentally unfair process for all marijuana facility applicants, whether they are applying under the initiated ordinance, or under ordinance 152, as well as Pinckney Village itself.

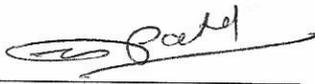
Further, deponent sayeth naught.



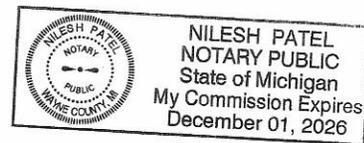
Samuel Pernick
 Representative of Jobs for Michigan,
 Liberty Wellness, and
 J Leaf

STATE OF MICHIGAN)
 INGHAM COUNTY)

Subscribed and sworn to before me in Wayne County, Michigan.



Notary public, State of Michigan, County of Wayne.
 My commission expires Dec 01, 2026



STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

**JOBS FOR PINCKNEY, a ballot question committee,
LIBERTY WELLNESS, LLC, and J LEAF, LLC,**
Plaintiff,

File No.: 21-31027-CZ
HON. SUZANNE GEDDIS

vs.

VILLAGE OF PINCKNEY,
Defendant.

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**PLAINTIFFS/COUNTER-DEFENDANTS' ANSWER TO DEFENDANT'S
COUNTERCLAIM**

Now come Plaintiffs/Counter-Defendants, Jobs For Pinckney, a ballot question committee, Liberty Wellness, LLC, and J Leaf, LLC, by its attorneys, Robert L. Baldori, Marcus D. Baldori and James R. Giddings, and in answer to Defendant/Counter-Plaintiff's Counter-claim, states as follows:

PARTIES

1. Defendant/Counter-Plaintiff Village of Pinckney is a Michigan general law village, whose charter is set forth in the General Law Village Act, MCL 61.1 - 75.12.

ANSWER: As to the allegations contained in paragraph 1 of Defendant's Counter-claim, the same are admitted.

2. Plaintiff/Counter-Defendant Jobs for Pinckney is a ballot question committee.

ANSWER: As to the allegations contained in paragraph 2 of Defendant's Counter-claim, the same are admitted.

3. Plaintiff/Counter-Defendant Liberty Wellness, LLC is a Michigan limited liability company.

ANSWER: As to the allegations contained in paragraph 3 of Defendant's Counter-claim, the same are admitted.

4. Plaintiff/Counter-Defendant J Leaf, LLC, is a Michigan limited liability company.

ANSWER: As to the allegations contained in paragraph 4 of Defendant's Counter-claim, the same are admitted

GENERAL ALLEGATIONS

5. On November 12, 2018, the Village of Pinckney Village Council adopted Ordinance 145, prohibiting recreational (adult use) marihuana establishments in the Village, as permitted under the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27101 *et seq.* (MRTMA). (See copy of Ordinance 145, attached as Exhibit A.)

ANSWER: As to the allegations contained in paragraph 5 of Defendant's Counter-claim, the same are admitted.

6. Section 6(1) of the MRTMA allows individuals "to petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election "

ANSWER: As to the allegations contained in paragraph 6 of Defendant's Counter-claim, the same are admitted.

7. On July 28, 2020, Jobs for Pinckney submitted a petition for an initiated ordinance under Sec. 6(1) of the MRTMA, which petition was subsequently approved by the Putnam Township Clerk for placement on the November 3, 2020 ballot.

ANSWER: As to the allegations contained in paragraph 7 of Defendant's Counter-claim, the same are admitted.

8. The proposed initiated ordinance was not limited to providing for the number of marihuana establishments in the Village of Pinckney (which by Ordinance 145 did not permit them), but rather, the proposed initiated ordinance set forth a comprehensive administrative regulatory system for recreational marihuana, consisting of several pages addressing license applications, scoring procedures, social equity, community benefits, and numerous other detailed rules, regulations, procedures, and penalties. (See copy of proposed initiated ordinance, attached as Exhibit B.)

ANSWER: As to the allegations contained in paragraph 8 of Defendant's Counter-claim, the same are admitted with this exception. To the extent that Defendant is claiming that Ordinance 145 precludes adoption of the initiated ordinance, Plaintiff denies this allegation as it is legally and factually untrue.

9. On November 3, 2020, a majority of the electors in the Village of Pinckney approved the initiated ordinance.

ANSWER: As to the allegations contained in paragraph 9 of Defendant's Counter-claim, the same are admitted.

10. On November 23, 2020, the Pinckney Village Council adopted the initiated ordinance as Ordinance 151. (See copy of Ordinance 151, attached as Exhibit C.)

ANSWER: As to the allegations contained in paragraph 10 of Defendant's Counter-claim, the same are admitted.

11. On November 23, 2020, the Pinckney Village Council also adopted Ordinance 152, which repealed several sections of Ordinance 151, and provided regulations for the licensing of marihuana establishments in the Village. (See copy of Ordinance 152, attached as Exhibit D.)

ANSWER: As to the allegations contained in paragraph 11 of Defendant's Counter-claim, the same are admitted.

12. On November 23, 2020, the Pinckney Village Council adopted Resolution 2020-26, establishing a temporary moratorium on accepting license applications or issuing licenses or permits for marihuana establishments, until March 1, 2021 but no longer than April 1, 2021, to allow the Village to clarify the marihuana ordinance and its requirements, develop the necessary forms and procedures, and determine and arrange for the necessary staffing to implement the licensing of marihuana establishments in the Village. (See copy of Resolution 2020-26, attached as Exhibit E.)

ANSWER: As to the allegations contained in paragraph 12 of Defendant's Counter-claim, Plaintiff admits that the Village Counsel adopted Resolution 202-26;

as to balance of the allegations in paragraph 12, Plaintiffs lack knowledge or information sufficient to form a belief as to the truth of those allegations.

13. On January 29, 2021, Plaintiffs/Counter-Defendants filed their Complaint for Declaratory Relief in this case, alleging that Jobs for Pinckney's initiated ordinance could not be amended by the Village Council, and seeking a declaratory judgment holding that Ordinance 152 exceeds the scope of a municipality's authority pursuant to the MRTMA, and therefore Ordinance 152 must be repealed.

ANSWER: As to the allegations contained in paragraph 131 of Defendant's Counter-claim, Plaintiff denies that it alleged that Pinckney's initiated ordinance could not be amended by the Village Council, but admits that it seeks declaratory judgment holding that Ordinance 152 exceeds the scope of a municipality's authority pursuant to the MRTMA.

COUNT I - DECLARATORY RELIEF

14. Defendant/Counter-Plaintiff restates the allegations in Paragraphs 1 through 13, above, as though fully set forth.

ANSWER: As to the allegations in paragraph 14, Plaintiffs reaffirm their Answers to each of the foregoing paragraphs.

15. Defendant/Counter-Plaintiff Village of Pinckney files this Counterclaim against Plaintiffs/Counter-Defendants pursuant to MGR 2.605, seeking a declaratory judgment that the Jobs for Pinckney initiated ordinance is invalid, as it exceeds the scope of an initiative under Sec. 6(1) of the MRTMA, MCL 333.27956(1).

ANSWER: As to the allegations in paragraph 15, Defendants admit that such is the Defendant's stated reason for its pleading; the balance of the allegation states a conclusion of law which requires no answer from these Plaintiffs.

16. An initiated ordinance under Sec. 6(1) of the MRTMA cannot apply to a municipality such as the Village of Pinckney that has opted out of permitting marihuana establishments, and therefore the Jobs for Pinckney initiated ordinance is invalid.

ANSWER: As to the allegation in paragraph 16, it states a conclusion of law which requires no answer from these Plaintiffs.

17. An initiated ordinance under Sec. 6(1) of the MRTMA must be limited to providing the number of marihuana establishments allowed in the municipality, and thus the Jobs for Pinckney initiated ordinance, which purports to establish a comprehensive regulatory scheme, is invalid.

ANSWER: As to the allegation in paragraph 17, it states a conclusion of law which requires no answer from these Plaintiffs.

18. The Village Council has the statutory authority pursuant to MCL 65.1 to adopt and amend ordinances, including initiated ordinances.

ANSWER: As to the allegation in paragraph 18, it states a conclusion of law which requires no answer from these Plaintiffs.

19. The Village Council is authorized under MRTMA Secs. 6(1)-(4), MCL 333.27956(1)-(4), to adopt ordinances regulating marihuana establishments in the Village, without regard to whether there was a voter-initiated ordinance.

ANSWER: As to the allegation in paragraph 19, it states a conclusion of law which requires no answer from these Plaintiffs.

20. There is no provision in the MRTMA or elsewhere in the law to prevent the Village Council from amending an initiated ordinance.

ANSWER: As to the allegation in paragraph 20, it states a conclusion of law which requires no answer from these Plaintiffs.

WHEREFORE, Plaintiffs/Counter-Defendants requests that this Honorable Court:

- 1) Deny Defendant/Counter-Plaintiff's request for declaratory judgement;
- 2) Enter Declaratory Judgment for Plaintiffs, Jobs For Pinckney, A Ballot Question Committee, Liberty Wellness, LLC, and J Leaf, LLC, and against the Village of Pinckney:
 - a) Declaring that the Jobs for Pinckney initiated ordinance is entirely valid, as having been adopted in accordance with Michigan law generally and with applicable provisions of MRTMA, and
 - b) Declaring that the Pinckney Village Council is not authorized by subsequently adopted ordinance to entirely nullify and rewrite an ordinance properly initiated under Michigan law and the applicable provisions of MRTMA;
- 3) Grant Plaintiffs their costs and attorney fees incurred; and
- 4) Grant such other relief as this Court deems just and appropriate.

AFFIRMATIVE DEFENSES

Plaintiffs/Counter-Defendants, Jobs For Pinckney, a ballot question committee, Liberty Wellness, LLC, and J Leaf, LLC, by its attorneys, Robert L. Baldori, Marcus D. Baldori and James R. Giddings, and in further answer to Defendant/Counter-Plaintiff's Counter-claim, state the following Affirmative Defenses to Defendant/Counter-Plaintiff's claim for Declaratory Judgment:

1. Defendant/Counter-plaintiff failed to state a claim upon which relief can be granted;
2. Defendant/Counter-plaintiff lacks standing;
3. Defendant's Ordinance 152 is invalid, as it exceeds the scope of that permitted under MRTMA and Michigan law in general;
4. The Village Council's statutory authority to adopt and amend ordinances is limited by MRTMA;
5. There is no provision in the MRTMA or elsewhere in the law to which authorizes the Village Council to amend an initiated ordinance;
6. Defendant's Ordinance 152 violates the public policy of this State, as it thwarts the people's will legitimately enacted in the original initiated ordinance. *Michigan Farm Bureau v Sec'y of State*, 379 Mich 387, 394-395; 151 NW2d 797 (1967).
7. Defendant has offered no proper basis for granting them a declaratory judgment;
8. Defendant/Counter-Plaintiff will not suffer any harm from the entry of injunctive relief;
9. Defendant/Counter-plaintiff's claims are barred under the doctrine of unclean hands.

10. The initiated ordinance, Ordinance 151, was a valid, legal ordinance on November 23, 2020. Defendant argues on page 10 in their Answer to Plaintiffs' Motion for Preliminary Injunction that the initiated ordinance is invalid or illegal. However, not only was the ordinance initiated by the voters of Pinckney, but it was *adopted* by the Village Counsel on November 23, 2020 as Ordinance 151. On the same day, the Village Counsel then adopted Ordinance 152 which purported to amend the initiated ordinance on November 23, 2020. This sequence of events demonstrates unequivocally that the original initiated ordinance was both valid and lawful.

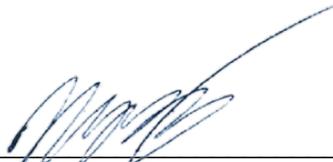
11. Plaintiff/Counter-defendants reserve the right to add other and further Affirmative Defenses as they may become known.

WHEREFORE, Plaintiffs/Counter-Defendants, Jobs For Pinckney, a ballot question committee, Liberty Wellness, LLC, and J Leaf, LLC, respectfully request that this Honorable Court grant the relief prayed for in Plaintiff/Counter-Defendants' complaint for declaratory relief and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,



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Date: March 15th, 2021