

**PINCONNING TOWNSHIP  
BAY COUNTY, MICHIGAN  
ORDINANCE NO. 19-03  
ORDINANCE AMENDING ORDINANCE 18-02, AS AMENDED,  
AUTHORIZING RECREATIONAL MARIHUANA ESTABLISHMENTS**

At a regular meeting of the Township Board of Pinconning Township, Bay County, Michigan, held at the Pinconning Township Hall on September 25, 2019, at 10:00 a.m., Township Board Member Beck moved to adopt the following Ordinance, which motion was seconded by Township Board Member Whitney:

*An Ordinance to amend Pinconning Township Ordinance No. 18-02, as amended, to reduce the number of Marihuana Microbusiness permits, to define, permit, and regulate Designated Consumption Establishments and other special license types, to authorize online orders and deliveries by licensed marihuana retailers and marihuana microbusiness establishments, modify hours of operation, and to maintain the public health, safety, and welfare of Pinconning Township.*

THE TOWNSHIP OF PINCONNING ORDAINS:

**Section 1. Amendment to Section 1.** Section 1 of Ordinance 18-02 shall be amended to read as follows:

**Section 1. Definitions.** The following words and phrases shall have the following definitions when used in this Ordinance:

1. “*Application*” means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the “*Applicant*. ”
2. “*Clerk*” means the Pinconning Township Clerk or his/her designee.
3. “*Cultivate*” means as that term is defined in Initiated Act 1 of 2018, Michigan Regulation and Taxation of Marihuana Act (“MRTMA”).
4. “*Marihuana Establishment*” or “*Establishment*” means a 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 department.
  - a. “*Marihuana grower*,” as that term is defined in the MRTMA; and
  - b. “*Marihuana microbusiness*,” as that term is defined in the MRTMA; and
  - c. “*Marihuana processor*,” as that term is defined in the MRTMA; and

- d. “*Marihuana retailer*,” as that term is defined in the MRTMA; and
  - e. “*Marihuana secure transporter*,” as that term is defined in the MRTMA.
  - f. “*Marihuana safety compliance facility*,” as that term is defined in the MRTMA.
  - g. “*Excess Marihuana Grower*” as that term is defined by the Department or as may be defined in the MRTMA;
  - h. “*Marihuana Event Organizer*” as that term is defined by the Department or as may be defined in the MRTMA;
  - i. “*Temporary Marihuana Event*” as that term is defined by the Department or as may be defined in the MRTMA;
  - j. “*Designated Consumption Establishment*” as that term is defined by the Department or as may be defined in the MRTMA;
  - k. Any other type of marihuana-related business licensed by the Department or as may be defined in the MRTMA.
5. “*Department*” means the Michigan State Department of Licensing and Regulatory Affairs or any designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Marihuana Establishment.
6. “*License*” means a current and valid License for a Marihuana Establishment issued by the State of Michigan.
7. “*Licensee*” means a Person holding a current and valid Michigan License for a Marihuana Establishment.
8. “*Permit*” means an approval issued by the Township pursuant to the MRTMA that allows a Person to operate an Establishment in the Township under this Ordinance, which Permit may be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.
9. “*Permit Holder*” means the Person that holds a current and valid Permit issued under this Ordinance.
10. “*Permitted Premises*” means the particular building or buildings within which the Permit Holder will be authorized to conduct the Establishment’s activities pursuant to the Permit.
11. “*Permitted Property*” means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.



12. “*Marihuana*” means that term as defined Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106 and as defined in the MRTMA.

13. “*Person*” means a natural person, company, partnership, trust, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

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

15. “*Public Place*” means any area to which the public is invited or generally permitted in the usual course of business.

16. “*Township*” means Pinconning Township, a general law township located in Bay County, Michigan.

**Section 2. Amendment to Section 2.** Section 2 of Ordinance 18-02 shall be amended to read as follows:

**Section 2. Permit Required; Number of Permits Available; Eligibility; General Provisions.**

1. The Township hereby authorizes the operation of the following types of Marihuana Establishments, subject to the number of available Permits issued in this Section:
  - a. MRTMA Marihuana Growers, Class A - cultivation of not more than 100 marihuana plants; and
  - b. MRTMA Marihuana Growers, Class B - cultivation of not more than 500 marihuana plants; and
  - c. MRTMA Marihuana Growers, Class C - cultivation of not more than 2,000 marihuana plants; and
  - d. Marihuana Microbusiness; and
  - e. Marihuana Processors; and
  - f. Marihuana Retailer; and
  - g. Marihuana Safety Compliance Facilities; and
  - h. Marihuana Secure Transporters; and
  - i. Designated Consumption Establishments; and

- j. Marihuana Event Organizer Establishments; and
  - k. Temporary Marijuana Event Establishments; and
  - l. Excess Marihuana Grower Establishments.
2. The number of Marihuana Establishment Permits in effect at any time shall not exceed the following maximums within the Township:
- a. Marihuana Grower Permits, Class A: **Up to 5**
  - b. Marihuana Grower Permits, Class B: **Up to 5**
  - c. Marihuana Grower Permits, Class C: **As determined by the Township Board**
  - d. Marihuana Microbusiness Permits: **Up to 3**
  - e. Marihuana Processor Permits: **Up to 10**
  - f. Marihuana Retailer Permits: **Up to 10 (not including bonus permits; see below)**
  - g. Marihuana Safety Compliance Facility Permits: **Up to 4**
  - h. Marihuana Secure Transporter Permits: **Up to 4**
  - i. Designated Consumption Establishment Permits: **Up to 3**
  - j. Marihuana Event Organizer Permits: **Up to 5**
  - k. Temporary Marijuana Event Permits: **Up to 10 Annually**
  - l. Excess Marihuana Grower Permits: **As determined by the Township Board**
  - m. An Applicant for one of the above Class C Marihuana Grower Permits, when located in the Township's Downtown Development District, may apply for and the Township Board may grant to that Applicant a bonus Marihuana Retailer Permit when the latter is proposed to be located on the same premises as Applicant's Class C Marihuana Grower Permit, except that not more than 10 Marihuana Retailer Permits shall be issued to the applicant.
  - n. The Township Board may review and amend the above maximums by resolution annually or as it determines to be advisable. Such revisions shall not be the basis for termination or non-renewal of a Permit previously issued.
3. No Permit shall be issued to any Person under this Ordinance unless the Person has previously obtained and currently holds a permit under Pinconning Township Ordinance 17-01, as amended, except for any Person applying for a Marihuana Grower Class A Permit, Marihuana Microbusiness, or Marihuana Safety Compliance Facility.



- a. No Marihuana Grower Permit under this Ordinance shall issue or be renewed to any Person unless the Person has a Pinconning Township Grower Permit under Ordinance 17-01 and a State License (of any class) under the MMFLA, except for any Marihuana Grower Class A Permit.
  - b. No Marihuana Processor Permit under this Ordinance shall issue or be renewed to any Person unless the Person has a Pinconning Township Processor Permit under Ordinance 17-01 and State License as a Processor under the MMFLA.
  - c. No Marihuana Retailer Permit shall issue or be renewed to any Person unless the Person has a Pinconning Township Provisioning Center Permit under Ordinance 17-01 and State License as a Provisioning Center under the MMFLA.
  - d. No Marihuana Secure Transporter Permits under this Ordinance shall issue or be renewed to any Person unless the Person has a Pinconning Township Secure Transporter Permit under Ordinance 17-01 and State License as a Secure Transporter under the MMFLA.
4. No Person shall operate a Marihuana Establishment at any location within the Township unless a then-currently-effective Permit for a Marihuana Establishment for that Person at that location has been issued under this Ordinance.
  5. Marihuana Establishments shall operate only as expressly allowed under this Ordinance.
  6. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other Licensing or Permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.
  7. At the time of Application, each Applicant shall pay Application fees, annual fees, renewal fees and inspection fees for Permits to the Township to defray the costs incurred by the Township for inspection, administration, review, oversight, and enforcement of the local regulations regarding Marihuana Establishments. The Township Board shall by resolution set the required fees in an amount not to exceed any limitations imposed by Michigan law.
  8. A Permit or Renewal Permit shall remain valid only until the June 1 immediately following its approval. A completed Application or Renewal Application must be received by the Township Clerk no later than March 31 of each year in order to grant or renew the Permit effective June 1 of that year, except as otherwise provided for a delayed Renewal Application. A Permit and Renewal Permit shall confer a reasonable expectation of subsequent renewal unless:
    - a. A renewal has been denied by the State.

- b. The Applicant has been found to have defrauded the Township, has committed a material violation of this Ordinance, has lost the state License, or is causing a nuisance to the public health, safety, or general welfare.
9. Each year, any pending Applications for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.
10. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or Township Permit.
11. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application and all required fees under this Ordinance and other applicable Ordinances and has been granted a Permit under this Ordinance by the Township Board. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property.
12. The original and current Permit issued under this Ordinance shall at all times be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement officials and administrative authorities.
13. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents, employees, agents, and representatives for any state, federal or local law enforcement agency to conduct random and unannounced examinations of the Establishment and all records, materials, and property in that Establishment at any time to review compliance with this Ordinance, state law, any other local regulations, and the Permit.
14. A Permit Holder may not engage in any other Marihuana Establishment in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Permit.

**Section 3. Amendment to Section 4.** Section 4 of Ordinance 18-02 shall be amended to add Section 4.5. Application and Operational Requirements for Special Marihuana Establishments, providing as follows:

**Section 4.5: Application and Operational Requirements for Special Marihuana Establishments.**

1. **Temporary Marihuana Event Permit Application Requirements.** An application for a temporary marihuana event permit shall be submitted to the Township at least 120 days before the first day of the temporary marihuana event. Applications for



Temporary Marihuana Event Permits shall submit the following information, at a minimum:

- a. A copy of the applicant's currently valid marihuana event organizer permit;
- b. The address, legal description and proof of ownership of the site at which the proposed event is to be conducted. Where ownership is not vested in the prospective licensee, the prospective licensee must submit a copy of a binding and notarized written agreement from the landowner authorizing the use of the site for the event.
- c. The date or dates and hours during which the proposed event is to be conducted.
- d. An estimate of the maximum number of attendants expected at the event for each day it is conducted, along with a detailed explanation of the evidence of admission that will be used and of the sequential numbering or other method which will be used for accounting of attendants.
- e. A diagram of the physical layout of the temporary marihuana event which clearly indicates all items required by the Department as well as the applicant's plans to provide for and location of:
  - i. Adequate ingress to and egress from the premises for the orderly flow of traffic onto and off of the premises;
  - ii. Adequate parking area sufficient to accommodate all motor vehicles, with at least one automobile space for every four (4) attendants, and located entirely off of all public rights of way;
  - iii. Police, fire, and other security protection;
  - iv. Food and water supply facilities;
  - v. Health and sanitation facilities;
  - vi. Medical facilities and services including emergency vehicles and equipment;
  - vii. Vehicle access and parking facilities;
  - viii. Camping and trailer facilities;
  - ix. Lighting facilities;
  - x. Communications facilities;
  - xi. Noise control and abatement;
  - xii. Facilities for clean-up and disposal of all waste; and
  - xiii. Insurance and bonding arrangements.
- f. Public liability insurance with limits of not less than One Hundred Thousand and no/100 (\$100,000.00) Dollars, or such other figure as shall be established from time to time by resolution of the Township Board, and property damage insurance with a limit of not less than Twenty-Five Thousand and no/100 (\$25,000.00) Dollars or such other amount determined from time to time by

resolution of the Township Board, from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to person or damage to property which may result from the conduct of the event, or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license.

- g. An executed agreement with a licensed septage waste servicer for the proper, effective, and frequent removal of liquid wastes from the premises as may be needed to prevent a nuisance or threat to the public health.
- h. Non-refundable application fee as set by Township Board resolution.
- i. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.
- j. Any material submitted to the Department for a temporary marihuana event license under Rule 62 or other applicable rule from the Department.
- k. The applicant may expressly incorporate by reference information or documentation contained in its event organizer permit application.

2. **Temporary Marihuana Event Permit Operational Requirements.** In addition to other applicable operational requirements, a temporary marihuana event which has been issued a permit under this ordinance shall comply with the following operational requirements:

- a. *Water Supply.* Provide sufficient potable water for drinking, cooking, washing and other water-using facilities for peak demand conditions, in accordance with all applicable state and local statutes, rules, and regulations.
- b. *Restroom Facilities.* Provide sufficient toilet facilities or portable toilets, hand washing stations, and drinking water facilities. The number and type of facilities required shall be determined, on the basis of the number of prospective attendants, and all required permits shall be obtained in accordance with all applicable state and local statutes, rules, and regulations.
- c. *Food Service.* Food service made available on the premises shall be legally prepared in accordance with Bay County Health Department rules.
- d. *Medical Facilities.* If the event is not readily and quickly accessible to adequate existing medical facilities, provide such facilities, including first aid stations, cooling tents, or facilities, on the premises of the event.
- e. *Liquid Waste Disposal.* Provide for liquid waste disposal in accordance with all the rules and regulations established by the Bay County Health Department



and any other applicable provision of state or local law. If liquid waste retention and disposal requires septage waste servicers, they shall be licensed in accordance with applicable rules and regulations, and any other applicable provision of state or local law.

- f. *Solid Non-Marihuana Waste Disposal.* Provide for solid waste storage on, and removal from, the premises in accordance with applicable provision of state or local law, including the rules and regulations of the Bay County Health Department. Storage shall be in approved, covered, fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendants. The permit holder shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.
- g. *Access and Traffic Control.* Provide ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises.
- h. *Parking.* Provide traffic controls necessary to direct traffic onto the premises parking areas so that the public rights of way remain free. No vehicles shall be parked upon the public rights of way.
- i. *Noise.* No person shall cause or create any unreasonable noise that would offend a reasonable person of normal sensitivities or disrupt the reasonable conduct of basic human activities, such as conversing or sleeping in any office, hotel, motel, hospital, or residence.
- j. *Operating Hours.* Marihuana Establishments at the Temporary Event must comply with the operating hour requirements of this Ordinance, unless different operating hours are explicitly approved by the Township Board on the Temporary Event Permit.

**Section 4. Amendment to Section 5.** Section 5 of Ordinance 18-02 shall be amended to read as follows:

**Section 5. Operational Requirements–Marihuana Establishment.** A Marihuana Establishment which has been issued a Permit under this Ordinance and operating in the Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it determines reasonable.

- 1. *Scope of Operation.* Marihuana Establishments shall comply with all applicable codes, including local zoning, building, and health regulations, except to the extent that they are inconsistent with the MRTMA or this Ordinance. The Establishment must hold a valid

local Permit and Michigan Marihuana Establishment License for the type of Marihuana Establishment intended to be carried out on the Permitted Property. The Establishment must also hold both a valid state License under the MRTMA as well as a valid state License and local Permit for the corresponding type of Facility under the MMFLA. The Establishment operator, owner, Licensee or Permit Holder must have documentation available that demonstrates full compliance with all local and State sales tax requirements, including holding any Permits or Licenses, if applicable.

2. *Required Documentation.* Each Marihuana Establishment shall be operated from the Permitted Premises on the Permitted Property. No Marihuana Establishment shall be permitted to operate from a moveable, mobile, or transitory location, except for delivery to a physical structure as authorized by this Ordinance or a Permitted and Licensed Marihuana Secure Transporter when engaged in the lawful transport of Marihuana. No person under the age of eighteen (18) shall be allowed to enter the Permitted Premises without a parent or legal guardian.
3. *Security.* Applicants and Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:
  - a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises; and
  - b. Robbery and burglary alarm systems that are professionally monitored and operated 24 hours a day, 7 days a week; and
  - c. A locking vault permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Establishment overnight, except for Marihuana actively grown in a Grower Establishment; and
  - d. All Marihuana in whatever form stored at a Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Permitted Premises; and
  - e. All security recordings and documentation shall be preserved for at least 48 hours by the Permit Holder and made available to any law enforcement agency or officer upon request for inspection.
4. *Operating Hours.* No Marihuana Retailer, Marihuana Microbusiness, or Designated Consumption Establishment shall operate between the hours of 8:00 p.m. and 8:00 a.m., except that on Thursday, Friday, Saturday, and Sunday a Retailer, Microbusiness, or Designated Consumption Establishment may operate until 10:00 p.m.
5. *Required Spacing.* No Marihuana Establishment shall be located within one-thousand (1,000) feet from any educational institution or school, college or university, church, house of worship or other religious facility, or public or private park, if such uses are in



existence at the time the Establishment is commenced, with the minimum distance between uses measured horizontally between the nearest property lines.

6. *Co-location with Certain Commercial Medical Marihuana Facilities and Recreational Establishments.* Subject to underlying zoning restrictions, the following co-location is permitted:
  - a. A Grower Facility, Processor Facility, or Provisioning Center may operate from within a single facility also operating with a Marihuana Grower, Excess Marihuana Grower, Marihuana Processor, Marihuana Event Organizer, Temporary Marihuana Event, Marihuana Retailer, or Designated Consumption Establishment operating pursuant to the MRTMA and applicable rules promulgated by the Department.
  - b. A Marihuana Grower, Excess Marihuana Grower, Marihuana Processor, Marihuana Event Organizer, Temporary Marihuana Event, Marihuana Retailer, or Designated Consumption Establishment may operate from within a single facility operating pursuant to the MRTMA and applicable rules promulgated by the Department.
7. *Amount of Marihuana.* The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Establishment shall not exceed that amount permitted by the state License or the Township's Permit.
8. *Sale of Marihuana.*
  - a. The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law.
  - b. The Establishment is prohibited from selling, soliciting or receiving orders for Marihuana or Marihuana Products over the internet, except as provided in subsection (c).
  - c. Marihuana Retailers and Marihuana Microbusinesses may accept online orders for marihuana and marihuana products only for delivery to a designated consumption establishment or the physical address of buildings or homes of persons at least 21 years of age, authorized to possess marihuana, and consistent with all applicable state laws and rules, as amended. The individual making the home delivery shall be an employee of the Marihuana Retailer or Marihuana Microbusiness. Any establishment that performs home deliveries shall submit its home delivery procedure to the Township, which shall conform to the requirements of home delivery of medical marihuana not in conflict with this Ordinance. The establishment shall require any purchaser to provide his or her valid driver license or government-issued identification card that bears a photographic image of the purchaser and shall permit the establishment to keep a record of the same. All order and delivery methods, including procedures, records, tracking records, logs, and other documents, are subject to inspection and examination by the state and the Township. Any

establishment engaged in delivery of marihuana shall notify the Township of any theft or loss of marihuana product in connection with a delivery.

9. *Sign Restrictions.* No pictures, photographs, drawings or other depictions of Marihuana or Marihuana Paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words “Marihuana,” “cannabis” and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property.
10. *Marihuana Consumption Areas.* Any consumption of marihuana products on the premises of a non-residential location and that charges a fee for entry, sells goods or services while individuals are consuming on the premises, or requires membership for entry shall acquire a designated consumption establishment permit or temporary marihuana event permit and comply with all applicable laws, rules, and regulations of this Ordinance and as promulgated by the Department.
11. *Indoor Operation.* All activities of Marihuana Establishments, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity permitted under the Permit Holder’s License or Permit must occur indoors. The Establishment’s operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no abatable nuisance odor is detectable at the property line of the Permitted Premises.
12. *Distribution.* No person operating a Establishment shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.
13. *Permits.* All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Licensed Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
14. *Waste Disposal.* The Permit holder, owner and operator of the Establishment shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
15. *Transportation.* Marihuana may be transported for delivery to a physical structure, Consumption Establishment, or Temporary Marihuana Event as authorized by this Ordinance or by a Marihuana Secure Transporter within the Township under this Ordinance, and to effectuate its purpose, only:
  - a. By Persons who are otherwise authorized by state law to transport Marihuana;
  - b. In a manner consistent with all applicable state laws and rules, as amended;



- c. In a secure manner designed to prevent the loss of the Marihuana;
- d. No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.

16. *Additional Conditions.* The Township Board may impose such reasonable terms and conditions on a Marihuana Establishment special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

**Section 5. Effective Date.** This Ordinance Amendment shall take effect the day following the date of publication after final adoption by the Township Board.

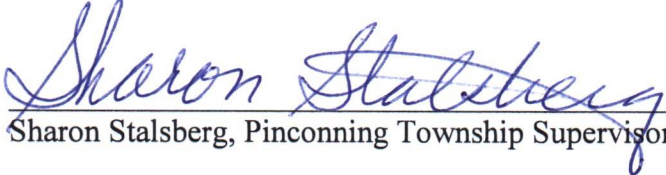
**Section 6. Repeal.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: Beck, Whitney, Hribek, Stalsberg, Switek

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED:

  
Sharon Stalsberg, Pinconning Township Supervisor