

PINCONNING TOWNSHIP
BAY COUNTY, MICHIGAN
ORDINANCE NO. 18-01
ORDINANCE AMENDING ORDINANCE 17-01, AS AMENDED, AUTHORIZING AND
PERMITTING COMMERCIAL MEDICAL MARIHUANA FACILITIES

At a regular meeting of the Township Board of Pinconning Township, Bay County, Michigan, held at the Pinconning Township Hall on Nov 13, 2018, at 4 p.m., Township Board Member Hribek moved to adopt the following Ordinance, which motion was seconded by Township Board Member Laframboise:

An Ordinance to amend Pinconning Township Ordinance No. 17-01, as amended, to authorize Growers Permits, Class B and Growers Permits Class C, to establish a maximum number of these permits to be issued, to allow bonus licensing, to allow certain transfers of permits, and clarify various provisions, including required application materials.

THE TOWNSHIP OF PINCONNING ORDAINS:

Section 1. Amendment to Section 2. Section 2 of Ordinance 17-01 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 Commercial Medical Marihuana Facilities, subject to the number of available Permits issued in this Section:
 - a. Growers, Class A
 - b. Growers, Class B
 - c. Growers, Class C
 - d. Processors
 - e. Provisioning Centers
 - f. Safety Compliance Facilities
 - g. Secure Transporters
2. The number of Commercial Medical Marihuana Facility Permits in effect at any time shall not exceed the following maximums within the Township:
 - a. Grower Permits, Class A: **5**
 - b. Grower Permits, Class B: **0**
 - c. Grower Permits, Class C: **Unlimited**
 - d. Processor Permits: **10**
 - e. Provisioning Center Permits: **10**
 - f. Safety Compliance Facility Permits: **4**

- g. Secure Transporter Permits: 4
 - h. In addition to the above maximum permit limits, an Applicant for one of the above-allocated Class C Grower Permits, when located in the Township's Downtown Development Area District, may apply for and the Township Board may grant to that Applicant a bonus Provisioning Center Permit when the latter is proposed to be located on the same premises as the Applicant's Class C Grower Permit, except that not more than 10 Provisioning Center Permits shall be used under this provision.
 - i. The Township Board may review and amend these numbers 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 person shall operate a Commercial Medical Marihuana Facility at any time and at any location within the Township unless an effective Permit for that person at that location has been issued under this Ordinance.
 - 4. Commercial Medical Marihuana Facilities shall operate only as allowed under this Ordinance.
 - 5. 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.
 - 6. At the time of Application, each Applicant shall pay applicable fees, including Application fees, annual fees, renewal fees, transfer fees, and inspection fees, for Permits to the Township to defray the costs incurred by the Township for inspection, administration and enforcement of the local regulations regarding Commercial Medical Marihuana Facilities. The Township Board shall by resolution set the fees in an amount not to exceed any limitations imposed by Michigan law.
 - 7. A Permit or Renewal Permit shall remain valid only for one year following its approval. 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.
 - 8. Each year, any pending Applications for renewal, amendment, or transfer of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.
 - 9. 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

abatable nuisance odor will be detectable at the property line of the Permitted Premises.

- vi. A plan for the disposal of Marihuana and related byproducts that will be used at the Facility.
- 8) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Facility.
- 9) Whether any Applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- 10) Signed and sealed (by Michigan registered architect, surveyor or professional engineer) site plan and interior floor plan of the Permitted Premises and the Permitted Property.
- 11) Information regarding any other Commercial Medical Marihuana Facility that the Licensee is authorized to operate in any other jurisdiction within the State, or another State, and the Applicant's involvement in each Facility.
- d. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.
- e. Information obtained from the Applicant or proposed Permit Holder is exempt from public disclosure under state law.
- f. Applicant acknowledges and consents to a background check and investigation by the Township as a condition of the Township processing and reviewing the application for approval or denial of a permit.
- g. A Renewal Application may expressly incorporate by reference information or documentation contained in the original Permit Application or prior Permit Renewal Application, making it clear where such information or documentation can be found, provided that the information or documentation has not changed.
- h. Prior to the approval or renewal of an Application for a Grower Permit, an Applicant may amend the Class of the Grower Permit Application by submitting an application form and expressly incorporating by reference the information or documentation contained in the original Permit Application. The Township may impose a fee as established by resolution. The Applicant will be required to show proof of a valid state license allowing operation of the new class of the Grower Permit prior to operation.

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 its Township Permit.

10. No Permit issued under this Ordinance may be transferred to any Person unless the transferee has submitted an Application, all required fees under this Ordinance and has been granted a Permit by the Township Board after complying with Section 4 of this Ordinance.
11. No change in control of a business organization or any attempted transfer, sale, or other conveyance of an interest of more than 1% in a Permit, whether through a single transaction or the combined sum of multiple transactions, is permitted unless the transferee has submitted an appropriate Application and all required fees under this Ordinance.
12. The Permit issued under this Ordinance shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
13. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and employees for any state, federal or local law enforcement to conduct random and unannounced examinations of the Facility and all articles of property in that Facility at any time to ensure compliance with this Ordinance, any other local regulations, and with the Permit.
14. A Permit Holder may not engage in any other Commercial Medical Marihuana Facility 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 2. Amendment to Section 4. Section 4 of Ordinance 17-01 shall be amended to read as follows:

Section 4. Application for, Renewal of, and Transfer of Permits

1. **Application.** An Application for a Permit for a Facility shall be submitted to the Clerk, and shall contain the following information:
 - a. The name, address, phone number and e-mail address of the proposed Permit Holder and the proposed Commercial Medical Marihuana Facility;
 - b. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Commercial Medical Marihuana Facility;
 - c. One (1) copy of all the following:

- 1) All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Commercial Medical Marihuana Facility.
- 2) If the proposed Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicates its legal status, attach a copy of all company formation documents (including amendments), a statement of all owners and their percentage of ownership in the company or corporation accounting for 100% of the ownership interest in the proposed Facility, proof of registration with the State of Michigan, and a certificate of good standing.
- 3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Facility.
- 4) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
- 5) Application for Sign Permit, if any sign is proposed.
- 6) Non-refundable Application fee.
- 7) Business and Operations Plan, showing in detail the Commercial Medical Marihuana Facility's proposed plan of operation, including without limitation, the following:
 - i. A description of the type of Facility proposed and the anticipated or actual number of employees.
 - ii. A security plan meeting the requirements of Section 5 of this Ordinance, which shall include a general description of the security systems(s), current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.
 - iii. A description by category of all products to be sold.
 - iv. All Material Safety Data Sheets for any nutrients, pesticides, and other chemicals proposed for use in the Commercial Medical Marihuana Facility.
 - v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no

2. **Renewal Application.** The same requirements that apply to all new Applications for a Permit apply to all Renewal Applications. Renewal Applications shall be submitted to and received by the Clerk not less than ninety (90) days prior to the expiration of the annual Permit, except that an Application requesting a change in the location of the Permitted Premises shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be presumed to have determined not to seek renewal; provided, such Permit Holder may rebut the presumption and apply for the right to file a delayed Renewal Application, which shall be granted by the Township unless the Applicant does not meet Section 2(7)(b). The application for the right to file a delayed Renewal Application must be filed by the expiration date, and the applicable fees shall be paid at the time of the delayed application, and the pre-existing Permit shall thereupon be extended until action is taken on the delayed Renewal Application, but no longer than 12 months after the expiration date.

3. **Transfer Application.**

- a. The same requirements that apply to all new Applications for a Permit apply to all Applications transferring an existing permit to a new legal entity or individual. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property.
- b. No Permit Holder shall transfer any ownership interest in a Permit without first obtaining the express approval of the Township Board. Any unauthorized transfer or attempted transfer of an ownership interest in a Permit constitutes a violation of this Ordinance.

4. **Transfer of Control of a Permit Holder.**

- a. No Permit Holder shall transfer, sell, or otherwise convey more than 1% of the ownership interest in the Permit, whether in a single transaction or the sum of multiple transactions, without the express approval of the Township Board.
- b. The Applicant and Permit Holder must submit a change in control transfer Application to the Clerk prior to any sale or transfer of stock or membership interest. The Application shall include all of the following:
 - 1) The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Commercial Medical Marihuana Facility;
 - 2) If the Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, attach a copy of all company formation documents (including amendments), purchase agreement for stock or membership interest, and a certified copy of the meeting minutes of the

board of directors or members authorizing the sale of stock or membership interest.

- 3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Facility.
 - 4) Whether any Applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
 - 5) Information regarding any other Commercial Medical Marihuana Facility that the Licensee is authorized to operate in any other jurisdiction within the State, or another State, and the Applicant's involvement in each Facility.
 - 6) A non-refundable Application fee, as set by resolution by the Board.
 - 7) Any documents required to reflect that the Commercial Medical Marihuana Facility will be operated and managed consistent with the current filings provided to the Township.
 - 8) Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.
- c. If, prior to the approval of an Application, an individual Applicant wishes to substitute a different Person as Applicant; or an Applicant that is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, seeks to undergo a change in ownership greater than 1%, the current Applicant may submit a written request to the Clerk to amend the Application. Upon approval by the Clerk, the current Applicant may amend the Application to reflect such a change in identity or ownership, provided that the substituted Applicant(s) submits the documents required under Section 4(4)(a). The Township Board may set a fee by resolution.
- d. The following actions constitute transfer of control and require Township approval.
- 1) *Corporations*. Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a Permit constitutes a transfer of ownership interest.
 - 2) *Limited Liability Companies*. Any transfer of more than 1% of membership interest or any change in managing members of any limited liability company holding a Permit constitutes a transfer of ownership.

- 3) *Partnerships*. Any transfer of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a Permit constitutes a transfer of ownership interest.
5. **Approval, Issuance, Denial and Appeal**. All inspections, review and processing of the Application, including transfer Applications, shall be completed within ninety (90) days of receipt of a complete Application and all required fees. The Township Board shall approve or deny the Permit within one hundred twenty (120) days of receipt of the completed Application and fees, or within one hundred fifty (150) days if the location of the Permitted Premises is proposed to be amended. The processing time may be extended upon written notice by the Township for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit. Any denial must be in writing and must state the reason(s) for denial. The Township has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the Township receives a complete Application, as determined by the Township Board. A determination of a complete Application shall not prohibit the Township from requiring supplemental information. Any final denial of a Permit may be appealed to a court of competent jurisdiction; provided that: (1) with respect to a denial of a new Permit, the pendency of an appeal shall not have the effect of granting rights to an Applicant, subject to an order of the court; and (2) with respect to a Renewal Application, provided that the Applicant has paid all required fees (and any additional fees required during the pendency of the appeal), the pre-existing Permit shall be extended during the pendency of the appeal, unless otherwise ordered by a court.
6. **No Building Currently Existing**. Any Applicant for a Commercial Medical Marihuana Facility Permit whose building is not yet in existence at the time of the Township's initial approval shall have one year immediately following the date of the Township's initial approval to commence construction of the building, in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules or regulations, and to thereafter complete construction and commence business operations without unreasonable delay.
7. **Effect of Transfer**.
 - a. Immediately following the approval of a transfer of ownership by the Township Board, transferee(s) will obtain all the interests, rights, obligations, and responsibilities of the previous Permit Holder. Once a Permit Holder has transferred his or her ownership interest, any privileges enjoyed by that Permit Holder under this Ordinance are terminated.
 - b. For transfers under Section 4(3), the deadlines for expiration and renewal for a transferred Permit will run from the date the transfer was effectuated.
 - c. For transfers under Section 4(4), the renewal and termination dates of the Permit shall not change.

- d. For transfers under Section 4(3) where no building is yet in existence, the deadline for construction set forth in Section 4(6) shall be extended to one year immediately following the date the transfer is effectuated, but construction must commence within three years after the Township's initial approval of the Permit, regardless of any subsequent transfers.

8. Duty to Supplement.

- a. If, at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MMFLA, or any rule or regulation promulgated thereunder, changes in any way from that which is stated in the Application, the Applicant or Licensee shall supplement such information in writing within thirty (30) days from the date upon which such change occurs.
- b. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, any owner, principal officer, director, manager, or employee within ten (10) days of the date when the Applicant, any owner, principal officer, director, or manager has notice of the event.
- c. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, or any violation of a local law related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marijuana, the MMMA, the MMFLA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marijuana by the Applicant, any owner, principal officer, director, manager, or employee within (10) ten days of the date when the Applicant, any owner, principal officer, director, or manager has notice of the event.

Section 3. Effective Date. This Ordinance Amendment shall take effect immediately following publication after final adoption by the Township Board.

Section 4. Repeal: All Ordinance or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: Beck, Laframboise, Hribek, & Stalsberg
NAYS: _____
ABSENT/ABSTAIN: Switek

ORDINANCE DECLARED ADOPTED:

Sharon Stalsberg
Sharon Stalsberg, Pinconning Township Supervisor