

VILLAGE OF PENTWATER

327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
(231) 869-8301 - FAX (231) 869-5120
www.PentwaterVillage.org

Planning Commission Meeting
July 27, 2021 - 6:00 P.M. – In Person
310 N. Rush Street – Park Place, Pentwater, MI 49449
Agenda

1. **Opening** – Welcome, Call to Order, Pledge of Allegiance, and Roll Call.
2. **Approval of Agenda and Minutes.**
 - A. Approval of Agenda.
 - B. Approval of Minutes of June 22, 2021.
3. **Public Comments - For items on the agenda.**
4. **Public Hearing:** None.
5. **Old Business:**
6. **New Business:**
 - A. Proposed Zoning Ordinance Amendment - Introduction of Medical and Recreational Marijuana Provisioning Centers/Retailers.
7. **Department/Committee Reports**
 - A. Zoning Administrator – See attached report.
 - B. Zoning Board of Appeals – The ZBA did not meet in June, 2021.
 - C. Master Plan Steering Committee – Chris Conroy.
8. **Public Comments**
9. **Communications from Planning Commission Members**
10. **Adjournment**

Next Scheduled Planning Commission Meeting – August 24, 2021 at Park Place



VILLAGE OF PENTWATER

Planning Commission

ON PENTWATER LAKE AND LAKE MICHIGAN
65 N Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
(231) 869-8301 – FAX (231) 869-5120

Regular Meeting Minutes – June 22, 2021

Chairperson Bruce Koorndyk called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 6:00 pm, in-person at Park Place, 310 N. Rush Street, Pentwater, with the Pledge of Allegiance.

ROLL CALL

Present: Bruce Koorndyk, Paul Anderson, Mary Temple, Amy Roberson, Michelle Angell-Powell and Ron Stoneman.

Absent: Chris Conroy

Staff Present: Keith Edwards, Zoning Administrator.

APPROVAL OF AGENDA

Motion by Angell-Powell, second by Stoneman to approve the Agenda as presented.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

APPROVAL OF REGULAR MEETING MINUTES

Motion by Angell-Powell, second by Roberson to approve the May 25, 2021 regular meeting minutes.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

PUBLIC COMMENTS – None.

PUBLIC HEARING:

A. Proposed Special Land Use – Reconstruction of the Pentwater Yacht Club Building at 205 S. Dover, Parcel ID No. 64-044-433-002-00

Planning Commission Chairperson Bruce Koorndyk opened the public hearing at 6:05 pm.

No member of the audience decided to speak.

Chairperson Koorndyk closed the public hearing at 6:07 pm

OLD BUSINESS:

A. Review of Proposed Special Land Use – Demolition and Reconstruction of the Pentwater Yacht Club Building at 205 S. Dover, Parcel ID No. 64-044-433-002-00.

Kyle Kuipers of Rockford Construction presented the proposed project and answered the questions of Planning Commissioners during their presentation.

Zoning Administrator, Keith Edwards, went over the recommendation of his Staff Report presenting the proposed uses of the site as a private club, restaurant and marina, within the C3, Central Business Zoning District. His report included a review of the general standards of Special Land Uses from Chapter 15 of the Zoning Ordinance and the specific standard for marinas listed in paragraph K of Section 15.04 of the Zoning Ordinance.

Mr. Edwards suggested the following conditions for Planning Commissioners' consideration when considering the request for Special Land Use Approval:

- Consideration for relocation of the existing detached accessory building (shed) currently located at the north end of the property to another location on-site during site plan review;
- Consideration for relocation and screening of the existing dumpsters, including grease dumpster, to another location during site plan review;
- Prohibiting the bulk storage of gasoline or other liquid fuels and gases in accordance with Section 15.04.K of the Zoning ordinance; and,
- Prohibiting the overnight parking of boats, trailers, or other vehicles (i.e., kayaks, SUPs, dinghies, and bicycles) within the approved on-site parking facilities;

Motion by Angell-Powell, second by Stoneman to approve the Special Land Uses for the Pentwater Yacht Club at 205 S. Dover Street, Parcel ID No. 64-044-433-002-00, subject to the conditions recommended by the Zoning Administrator and stated in his report dated as revised June 15, 2021.

Roll Call Vote:

Aye: Angell-Powell, Stoneman, Temple, Anderson, Roberson and Koorndyk

Nay: None

Absent: 1

Motion passed.

NEW BUSINESS

A. Preliminary Site Plan Review for the Demolition and Reconstruction of the Pentwater Yacht Club Building at 205 S. Dover, Parcel ID No. 64-044-433-002-00.

Kyle Kuipers of Rockford Construction presented the highlights of the proposed project and answered the questions of Planning Commissioners during their presentation.

Mr. Edwards reviewed his suggested conditions for approval from his review of the preliminary site plan which are:

- While Staff finds that the scale of 1" = 20' is adequate for review with one exception - that the scale on page C-203 be correctly shown as 1"=20' rather than 1"=50'.
- The applicant must provide an "existing conditions" drawing (i.e., page C-206) that would include all existing buildings and driveways within 100 feet of the Pentwater Yacht Club property lines (See Section 16.03.A.20b.(9)).
- Provide on the existing Zoning District and Land Use of all properties abutting the subject property on the same page to be created in No. 2 above.
- Please show the proposed Sanitary Sewer Connection on page C-300.

Motion by Angell-Powell, second by Anderson to approve the Preliminary Site Plan for the Pentwater Yacht Club at 205 S. Dover Street, Parcel ID No. 64-044-433-002-00, subject to the conditions recommended by the Zoning Administrator and stated in his report dated June 15, 2021.

Roll Call Vote:

Aye: Angell-Powell, Anderson, Temple, Roberson, Stoneman and Koorndyk

Nay: None

Absent: 1

Motion passed.

B. Election of Officers.

Angell-Powell moved to re-elect Bruce Koorndyk as Chairperson. Amy Roberson seconded.
Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

Anderson moved to re-elect Michelle Angell-Powell as Vice Chairperson. Ron Stoneman seconded.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

Angell-Powell moved to re-elect Paul Anderson as Secretary, Mary Temple seconded.
Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

The election of a representative to the Zoning Board of Appeals was postponed to the July meeting.

COMMITTEE/DEPARTMENT REPORTS

- A. Zoning Administrator** – Mr. Edwards’ written report was submitted to the Planning Commission.
- B. Zoning Board of Appeals** – See Mr. Edwards’ written report.
- C. Master Plan Steering Committee** – Mr. Edwards stated that Planning Commissioners would start receiving parts of the Master Plan at their August meeting.

COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS – None.

PUBLIC COMMENTS – None.

ADJOURNMENT

Chairperson Bruce Koorndyk adjourned the meeting at 6:28 pm.

Respectfully Submitted,
Keith Edwards, Zoning Administrator

July 1, 2021

Approved by the Village of Pentwater Planning Commission on _____.

MEMORANDUM

To: Village of Pentwater Planning Commission

From: Keith Edwards, Zoning Administrator

Date: July 23, 2021

**Subject: Village Council request for Zoning Ordinance Amendment
To allow for Marijuana (Marihuana) Provisioning Center/Retailers
C-3, Central Business District of the Village of Pentwater**

Introduction

At the July 12 Village Council meeting, the Village Council passed an ordinance to allow Medical Marijuana Facilities and (Recreational) Marijuana Establishments to seek an unlimited number of Provisioning center/retailer licenses from the Village of Pentwater and the State of Michigan. This ordinance is different than a Zoning Ordinance to provide a location for such uses, it just provides a means for applicants to seek a license from the Village Council, subject to the standards listed in the ordinance. The ordinance as passed by the Village Council is attached to this memorandum for reference. The ordinance goes into effect

Currently, such facilities cannot exist in the Village unless the Village Zoning Ordinance is amended to allow the Marijuana Provisioning Centers/Retailers. Please refer to the attached memorandum and proposed Zoning Ordinance Amendment from Village Attorney, Brian Monton. Since the majority of retail businesses are located within the C-3, Central Business District as depicted on the Zoning Map, and the Marijuana Facilities/Establishments Ordinance allows only Provisioning Center/Retail licenses and not growers, testing facilities, etc., it seemed logical to consider allowing such uses within the C-3, Central Business Zoning District. However, the Planning Commission may wish to discuss whether or not the C-3 District is the appropriate location for Marijuana Provisioning Centers/Retailers.

The Planning Commission may also wish to recommend whether Marijuana Provisioning Centers/Retailers will be allowed as Permitted Uses or Special Land Uses within the Zoning District you choose.

Background

Over the last few years, the Village of Pentwater has had a moratorium on the establishment of Medical Marijuana Provisioning Centers and Recreational Marijuana Retailers while the Village

Ordinance Committee discussed whether or not such uses might be licensed to operate within the Village limits.

Recently, with the assistance of Attorney Monton to draft such a licensing ordinance – as required by State law – the Ordinance Committee recommended the Village Council adopt a Licensing Ordinance. The draft of this Licensing Ordinance is attached for reference. The Licensing Ordinance was adopted by the Village Council on July 12, 2021. The adopted ordinance is not yet available as it has not yet been published and therefore not yet effective. Please familiarize yourself with the Licensing Ordinance provisions.

Village Code, Chapter 115 – Medical Marijuana and Marijuana Establishments Ordinance

While the draft Zoning Ordinance amendment (introduced below) does not propose to add any specific standards for establishing a Marijuana Provisioning Center/Retailer, as an allowable use within the Village, there are specific location and other standards that must be met in order for the Village Council to recommend the State of Michigan issue a license for such a facility, including Section 115.05, Paragraph (K) on page 6, which states that:

“A facility shall not be located within:

- (i) An area zoned exclusively for residential use;
- (ii) 500 feet of a school, as measured from the respective parcel lines of the religious institution and the facility; or,
- (iii) 250 feet of a religious institution, as measured from the respective parcel lines of the religious institution and the facility.”

Furthermore, a Zoning Permit and Certificate of Occupancy are also required to be obtained from the Village and Oceana County Building Department respectively in accordance with Section 115.06 (7) and (8) must also be obtained by the applicant prior to being granted a license by the Village.

Chapter 115 also states, in section 115.08:

(B) All Marijuana shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building; and,

(C) Marijuana facilities shall be closed for business, including deliveries between 9 pm and 7 am.

Lastly, this ordinance is designed to be easily changed to allow other Marijuana uses, but must be amended to do so, specifically in Section 15.04, number of permits available. Please note that the Village license is reviewed and approved solely by the Village Manager and does not go in front of Village Council or any other public body for review and approval.

Zoning Ordinance Amendment

Please refer to the attached Zoning Ordinance amendment prepared by Village Attorney, Brian Monton. This proposed amendment simply adds the appropriate definitions to Section 2.14 of Chapter 2 and provisions to permit A Provisioning Center/Retail to the Permitted Uses of Chapter 12, specifically including them as paragraph (J) and moving down the allowable accessory buildings structures and uses to paragraph (K) of Section 12.02. Please also refer to the attached memorandum from Attorney Monton dated July 20, 2021, for additional information.

Location, Location, Location

Although the proposed Zoning Ordinance amendment suggests the C-3 Central Business District for locating Marijuana Provisioning Centers/Retailers, the Planning Commission should discuss whether the main street of downtown Pentwater is the appropriate location or not.

Within the short amount of time that I have had to research Marijuana Provisioning Center/Retailers it does not appear that the main street in a traditional small town is the typical location. The www.michigancannibustrail.com website provides an excellent map and information about Provisioning Centers/Retailers throughout Michigan. After researching these uses from I-75 to the Lake Michigan shore, from the Muskegon area to Petoskey, the majority of such businesses are located in stand-alone buildings with parking lots, similar to suburban convenience stores. There are five such stores located in close proximity to each other along the US 31 corridor north of downtown Manistee.

Two such stores, one located in on S. Michigan Avenue in Big Rapids and another on N. Main Street in Cedar Springs, northeast of Grand Rapids are of the same franchise called the Lume Cannabis Co. While Big Rapids and Cedar Springs may not be Lake Michigan Waterfront communities, these “downtown” communities may be good examples to research further.

The majority of the other stores in West Michigan are located within buildings in struggling strip commercial, office, industrial or warehouse districts, have their own parking lots, and are often associated with adjacent uses among struggling neighborhoods, pawn shops, bail bonds, tattoo and tobacco shops and liquor or convenience stores. Should Pentwater have the first such store in Oceana County, it will likely be a “destination” attraction, at least during the “honeymoon” period.

A Catalyst for Change

The character of Downtown Pentwater appears to be the sales of goods and services for families of tourists visiting for a day or vacationing for a week and appears to be composed primarily of young families with children, or grandchildren with grandparents patronizing ice cream shops, t-shirt, souvenir and skateboard or toy stores, while the adults take in the galleries, home goods stores and clothing stores. Thus, allowing a Marijuana Provisioning Center/Retailer into that mix along Hancock Street in Pentwater could have dramatic effect.

While some may compare marijuana stores to businesses serving alcohol, the restaurants in Pentwater have had over 100 years of experience (since Prohibition) and State regulation in serving alcohol along with food and opportunities to socialize. Many of these establishments have become places for people to gather, consume food and beverages, and have become more than just bars over many years.

The Marijuana Establishments Ordinance requires that marijuana must be stored inside a secure building where the product cannot be seen from outside of the store. It is difficult to imagine where in downtown Pentwater that such a facility would be desirable – perhaps the Post Office.

Suggestions for Discussion

The following is a list of items for discussion by the Planning Commission to facilitate discussion and to provide feedback to the Village Attorney regarding the proposed Zoning Ordinance amendment for Marijuana Provision Centers/Retails within the Village of Pentwater:

- Since the majority of properties within the C-3, Central Business District are located along Hancock Street – is this the proper location for Marijuana Provisioning Centers/Retailers?
- If not to be located within the C-3 District, is there another location within the Village that would be appropriate? For example:
 - The C-1 General Commercial District along Sixth Street?
 - If so, should the C-1 District be enlarged along this corridor?
 - The LI, Light Industrial District?
 - Today, the Pentwater Wire factory encompasses the entire area within the LI District, and could contain more than one Marijuana Provisioning Center/Retailer of 10,000 sq. ft.
 - If the LI District is the appropriate one, should other properties be considered for this Zoning District designation?

- The Planning Commission should also discuss whether or not Marijuana Provisioning Centers/Retails should be permitted by right, subject to the license being issued solely by the Village Manager, or a Special Land Use, which would require a public hearing and site plan review to be held by the Planning Commission.

Process / Recommendation

Every amendment to the Zoning Ordinance, including the Zoning Map requires appropriate public notice and that a public hearing be held by the Planning Commission. After the public hearing, the Planning Commission is welcome to make a recommendation to the Village Council. At this time, the Planning Commission may:

- Schedule a public hearing for the Zoning Ordinance amendment as written;
- Suggest changes to the proposed amendment for return to the Planning Commission at a later date;
- Further research and discuss the appropriate locations for Marijuana Provisioning Centers/Retailers, and whether such uses should be allowed as permitted uses, subject to a license to be issued solely by the Village Manager, or a Special Land Use and Site Plan Review to be conducted by the Planning Commission.

VILLAGE OF PENTWATER
COUNTY OF OCEANA, STATE OF MICHIGAN

ORDINANCE NO. ____ - ____

ADOPTED: _____, ____

EFFECTIVE: _____, ____

MEDICAL MARIJUANA AND MARIJUANA ESTABLISHMENTS ORDINANCE

AN ORDINANCE TO PROVIDE A TITLE; DEFINITIONS; TO AUTHORIZE THE OPERATION OF AND PROVIDE REGULATIONS FOR MEDICAL MARIJUANA FACILITIES IN THE VILLAGE OF PENTWATER PURSUANT TO THE MEDICAL MARIHUANA FACILITIES LICENSES ACT, ACT 281 OF 2016; TO AUTHORIZE THE OPERATION OF AND PROVIDE REGULATIONS FOR RECREATIONAL MARIJUANA ESTABLISHMENTS PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW 1 OF 2018; TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE AN EFFECTIVE DATE.

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. That Chapter 115 of the Village of Pentwater, Michigan, Code of Ordinances, be amended in its entirety to read as follows:

Chapter 115 - Medical Marijuana Facilities and Marijuana Establishments

§ 115.01. Legislative Intent. The Village intends to issue permits for and regulate marijuana facilities and marijuana establishments to the extent they are permitted under the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.27101 *et seq.*, the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, and the ordinances and regulations of the Village. The Village does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with any law, including federal law. By requiring a permit and compliance with the requirements of this chapter, the Village intends to protect the public health, safety and welfare of the citizens and residents.

§ 115.02. Definitions.

(A) Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* ("MMFLA"), the Medical Marihuana Act, MCL 333.26421 *et seq.* ("MMA"), the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* ("MRTMA"), and the rules or emergency rules promulgated pursuant to any of these acts, shall have the same meanings in this Chapter.

(B) For purposes of the requirements for obtaining a permit under this Chapter, the terms “facility” and “marihuana facility” are intended to include both a “marihuana facility” as defined in the MMFLA and a “marihuana establishment” as defined in the MRTMA.

(C) Additionally, the following words as used in this Chapter setting forth the requirements for obtaining a city permit have the following meanings:

(1) “Applicant” means a person who applies for a Village permit.

(2) “Authorized person” means:

(i) An owner of a facility;

(ii) The directors, officers, members, partners, trustees, and individuals of a facility that is a corporation, limited liability company, partnership, trust, or sole proprietorship;

(iii) Any person who exercises managerial authority of a facility during business hours.

(3) “Department” means the Michigan Department of Licensing and Regulatory Affairs or its successor.

(4) “Designated consumption establishment” means a commercial space licensed by the state to permit adults 21 years of age and older to consume marijuana products at the location indicated in the license.

(5) “Facility” means a “marihuana facility” as defined in the MMFLA and a “marihuana establishment” as defined in the MRTMA.

(6) “Grower” means a person who cultivates and sells marijuana to other facilities, as permitted by the MMFLA and the MRTMA, which includes all of the following:

(i) “Class A grower”, which is a maximum of 500 plants under the MMFLA and 100 plants under the MRTMA;

(ii) “Class B grower”, which is a maximum of 1,000 plants under the MMFLA and 500 plants under the MRTMA;

(iii) “Class C grower”, which is a maximum of 1,500 plants under the MMFLA and 2,000 plants under the MRTMA;

(iv) “Excess marijuana grower”, which is a person to whom the state has

issued 5 class C marihuana grower licenses under the MRTMA (2,000 plants each).

(7) "Marijuana" means "marihuana" as defined in the MMFLA and as defined in the MRTMA.

(8) "Marijuana event organizer" means a person licensed to apply for a temporary marihuana event license under these rules.

(9) "Medical Marihuana Facilities Licensing Act" or "MMFLA" means the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, and the rules or emergency rules promulgated pursuant to the MMFLA.

(10) "Michigan Medical Marihuana Act" or "MMMA" means the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, and the rules or emergency rules promulgated pursuant to the MMMA.

(11) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*, and the rules or emergency rules promulgated pursuant to the MRTMA.

(12) "Marijuana Microbusiness" means a business that cultivates not more than 150 plants; processes and packages it; and sells it to individuals who are 21 years of age or older or to a safety compliance facility but not to other businesses.

(13) "Permittee" means a person holding a Village permit under this chapter.

(14) "Person" means any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit, in addition to the entities included in the definition of "person" in the MMFLA and the MRTMA.

(15) "Processor" means a person who operates as a "processor" as defined in the MMFLA or a "marihuana processor" as defined in the MRTMA or as both at the same location under common ownership.

(16) "Provisioning Center/Retailer" means a person who operates as a "provisioning center" as defined in the MMFLA or as a "marihuana retailer" as defined in the MRTMA or as both at the same location under common ownership.

(17) "Safety compliance facility" means a a person who operates as a "safety compliance facility" as defined in the MMFLA or a "marihuana safety compliance facility" as defined in the MRTMA or as both at the same location under common

ownership.

(18) "Secure transporter" means a person who operates as a "secure transporter" as defined in the MMFLA or a "marihuana secure transporter" as defined in the MRTMA or as both at the same location under common ownership.

(19) "State license" means a valid state operating license issued under the MMFLA or a valid state license issued under the MRTMA or both.

(20) "Village permit" or "permit", unless the context requires a different meaning, means a valid permit that is issued under this Chapter.

§ 115.03 Marijuana facilities authorized. Pursuant to the MMFLA and the MRTMA, the Village of Pentwater authorizes the operation in the Village of the following facilities, provided they possess a state license or licenses and they comply with the additional requirements of this chapter, the Village of Pentwater Zoning Ordinance, as amended, and all other applicable laws, regulations, and ordinances:

(A) Provisioning center/retailer.

§ 115.04 Village permit required, number of permits available.

(A) No person shall operate a facility for which an annual permit as provided for in this chapter has not been issued. The maximum number of permits available for each type of facility is as follows:

- (1) Grower permits - zero.
- (2) Processor permits - zero.
- (3) Secure transporter permits - zero.
- (4) Provisioning center/retailer - **unlimited**.
- (5) Safety compliance facility permits - zero.
- (6) Marijuana microbusiness permits - zero.
- (7) Designated consumption establishment permits - zero.

(B) The permit requirement in this chapter applies to all facilities whether operated for profit or not for profit.

(C) The permit requirement in this chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by marijuana facilities.

(D) The issuance of any permit pursuant to this chapter does not create an exception, defense or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or Village ordinance.

(E) A permit issued under this chapter shall be valid for 1 year after the date of issuance. To renew an existing permit, the permittee shall submit an application in the same manner as is required to apply for a new permit no sooner than 90 days before the expiration date and no later than 60 days before the expiration date.

§ 115.05 General provisions and regulations.

(A) A permit issued under this chapter is valid only for the location of the facility and type of facility that is listed on the permit application and is valid only for the operation of the facility at that location by the permit applicant.

(B) A permit issued under this chapter is valid only if the permit holder also holds a valid current state license and a copy of the valid current state license has been provided to the Village Clerk by the state license holder and is in compliance with all other requirements in this chapter.

(C) The revocation of, suspension of, and placement of restrictions by the state on a state license apply equally to a permit issued by the Village.

(D) The expiration date of the state license that corresponds to a permit issued under this chapter constitutes the expiration date of the permit, however, operation of the facility under the expired permit is permitted to the extent that operation under the expired state license is permitted under the MMFLA.

(E) A permit issued by the Village under this chapter, shall be conspicuously posted in the facility where it is easily open to public view.

(F) Acceptance of a permit from the Village under this chapter constitutes consent by the permittee, owners, managers and employees to permit the Village Manager, Chief of Police, Zoning Administrator, or their designee to conduct inspections of the facility to ensure compliance with this chapter.

(G) A facility shall comply with all provisions the Village of Pentwater Zoning Ordinance, as amended. The Village may revoke a permit issued under this chapter for any violations of the

Village of Pentwater Zoning Ordinance.

(H) It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person, facility, or establishment a vested right, license, privilege, or permit to continued authorization from the Village for operations within the Village.

(I) The Village expressly reserves the right to amend or repeal this ordinance in any way, including, but not limited to, complete elimination of or reduction in the type and/or the number of facilities or permits authorized to operate within the Village.

(J) No person, authorized person, applicant, or permittee shall be issued or hold a permit under this chapter if such person, authorized person, applicant, or permittee has:

(i) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 *et seq.*, the federal law, or the law of any other state; or

(ii) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state.

(K) A facility shall not be located within:

(i) An area zoned exclusively for residential use;

(ii) 500 feet of a school, as measured from the respective parcel lines of the school and the facility;

(iii) 250 feet of a religious institution, as measured from the respective parcel lines of the religious institution and the facility; or

§ 115.06 Application requirements for and issuance of Village permit.

(A) Application for new annual permit. An application for a new annual permit for a marijuana facility shall be submitted to the Village Clerk on a form provided by the Village, which shall fulfill all of the requirements indicated on the form, including but not limited to:

(1) The name and address of the facility and any other contact information requested on the application form.

(2) The name and address of all owners of the real property where the facility is located.

(3) Name and address of all business managers of the facility.

(4) A statement with respect to each person named on the application whether the person has:

(i) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 *et seq.*, the federal law, or the law of any other state and, if so, the date of the conviction and the law under which the person was convicted; or

(ii) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state, and, if so, the date of the conviction and the law under which the person was convicted.

(5) Each person named on the application shall execute a release authorizing the Chief of Police or their designee to conduct a criminal background investigation with respect to such person.

(6) Proof of applicant's ownership or legal possession of the premises.

(7) A zoning permit.

(8) A certificate of occupancy or temporary certificate of occupancy.

(9) The type of facility for which a permit is requested at the location specified in the application. For purposes of obtaining a Village permit, only one permit application is required for each type of facility listed above at one location, regardless of whether the applicant intends to apply for or has applied for a state license under the MMFLA, the MRTMA or both, at the same location under common ownership. For purposes of this chapter, a permit issued for a facility at the location indicated in the application form authorizes the operation of the facility in compliance with the MMFLA, the MRTMA or both, as applicable.

(10) Payment of a non-refundable application fee, which shall be determined by resolution of the Village Council.

(11) Any other requirements as determined by resolution of the Village Council.

(B) Renewal, amendment, or transfer of existing permits.

(1) The same procedures that apply to applying for a new permit shall apply to the renewal, transfer, or amendment of existing permits.

(2) An application for renewal of an existing permit shall be submitted no sooner than 90 days before the existing permit expires.

(3) An amended application shall be submitted under both of the following circumstances:

(i) When there is a change in any information the permit applicant was required to provide in the most recent application on file with the Village; and,

(ii) When there is a change in any information the permit applicant was required to provide in the most recent application for a state license on file with the state of Michigan.

(4) An application to amend an existing permit to change the location of the facility shall be submitted no later than 90 days before the existing permit expires. An application to amend an existing permit to change any other information on the most recent application on file with the Village may be submitted at any time.

(5) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

(6) Applications for renewal or amendment of existing permits may only be made by the current holder of the permit. Permits are not transferable without the consent of the Village. Applications for the transfer of a permit may be made in connection with the sale of a facility by a permittee.

(7) A permittee shall be entitled to renewal of a permit if the permittee meets all of the following conditions:

(i) The facility subject to the permit has committed no violations of state or local laws, ordinances, or regulations during the year prior to the application for renewal;

(ii) The permittee has paid the annual permit fee for the renewal period;

(iii) There have been no changes in ownership or the authorized persons of the facility;

(iv) The permittee has received the renewal of its State license for the renewal period.

(C) Order of processing applications. Complete permit applications shall be processed in the order that they are received.

(D). Exempt from disclosure. To the extent permissible, all information submitted in

conjunction with an application for a new permit, permit transfer, or permit renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*

§ 115.07 Permit Application Evaluation.

(A) If the permit applicant has successfully demonstrated compliance with all requirements for issuance of a permit under this chapter, the Village Manager shall issue a new permit to the permit applicant if a permit is available or grant renewal of an existing permit.

(B) An applicant who has been denied a permit may appeal the decision of the Village Manager to the Village Council. The applicant shall give written notice of the appeal to the Village Clerk within 10 days of the Village Manager's decision. The Village Council may overturn the decision of the Village Manager by a majority vote of the entire Village Council.

(C) The issuance of a permit under this chapter authorizes operation of the facility only after the following additional requirements are met:

(1) The applicant has provided the Village Clerk with a copy of the applicant's state license.

(2) The applicant has installed the following security measures on the premises:

(i) Security cameras to monitor all areas of the premises where persons may gain or attempt to gain access to marijuana or cash. Recordings from security cameras shall be maintained for a minimum of 72 hours. The Village Chief of Police may adopt regulations implementing this requirement, including but not limited to regulations on the design, location, maintenance, and access to the cameras and recordings. Those regulations shall take effect 30 days after being filed with the Village Clerk unless modified or disapproved by the Village Council.

(ii) A monitored alarm system.

(iii) A storage room for overnight storage of any marijuana product and cash on the premises. The storage room shall have only 1 door for entry and no other potential means of entry, lawful or unlawful, such as a window or crawl space. The door shall be equipped with a locking mechanism that is different from other locks on any door within the facility.

§ 115.08 Conduct of business at a facility.

(A) A facility shall operate and conduct business in compliance with the MMFLA, the

MRTMA, the MMMA, the rules promulgated pursuant to any of these acts, and all other laws, rules, and regulations of the State of Michigan and the Village of Pentwater.

(B) All marijuana in any form kept at the location of the marijuana facility shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building.

(C) Marijuana facilities shall be closed for business, and no sale or other distribution of marijuana in any form shall occur upon the premises or be delivered to or from the premises, between the hours of 9:00 p.m. and 7:00 a.m.

(D) All marijuana in any form on the premises of a marijuana facility shall be marijuana cultivated, manufactured, and packaged in the State of Michigan.

§ 115.09 Prohibited Acts. It shall be unlawful for any person to:

(A) Violate any provision of this chapter or any condition of any permit granted pursuant to this chapter.

(B) Produce, distribute or possess more marijuana than allowed by any applicable state or local law.

(C) Produce, distribute or possess marijuana in violation of this chapter or any other applicable state or local law.

(D) Make any changes or allow any changes to be made in the operation of the facility as represented in the permit application, without first notifying the Village by amending its application.

§ 115.10 Permit revocation and suspension.

(A) A permit issued under this chapter may be revoked or suspended after an administrative hearing at which the Village Council by a majority vote of the members present determines that any grounds for revocation under this chapter exist. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of the permit at least 10 days prior to the date of the hearing. Notice of the hearing shall be given by first-class mail to the address on the permit application. A permittee whose permit is the subject of such a hearing may have a reasonable opportunity to present evidence and/or call witnesses at the hearing.

(B) A permit issued under this chapter may be suspended or revoked for any of the following violations:

- (1) Any person whose name is on or is required to be on the permit application is convicted of or found responsible for violating any provision of this chapter;
- (2) A permit application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the Village with any other false or misleading information related to the facility;
- (3) Any person whose name is on or is required to be on the permit application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the permit application;
- (4) Marijuana is dispensed on the business premises in violation of this chapter or any other applicable state or local law, rule or regulation;
- (5) The facility is operated or is operating in violation of the specifications of the permit application, any conditions of approval by the Village or any other applicable state or local law, rule or regulation;
- (6) The Village, the county, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this chapter or other applicable state or local laws related to public health and safety;
- (7) The facility is determined by the Village Council to have become a public nuisance;
- (8) The facility's state license has been suspended or revoked.

(C) The Village may take immediate action to temporarily suspend a permit issued under this chapter for a period of up to 48 hours if there is probable cause to believe that a violation of Village ordinance or state law has occurred at the facility and the alleged violation constitutes a severe and imminent threat to the public health, safety, or welfare. The temporary suspension of a permit under this subsection requires the affirmative consent of both the Village Chief of Police and Village Manager. The temporary suspension may be extended beyond the 48-hour period by the affirmative vote of the Village Council at a regular, special, or emergency session/meeting. Notice of such meeting/session shall be provided as required by the Michigan Open Meetings Act, Act 267 of 1976, as amended. Additionally, notice shall be given to the permittee by posting at the address of the facility.

§ 115.11 Revocation not exclusive penalty. Nothing in this chapter shall be deemed to prohibit the Village Manager, Chief of Police, Village Attorney, Zoning Administrator, or their designee from imposing other penalties authorized by the Village Code, Village of Pentwater Zoning Ordinance, or other ordinance or to file a public nuisance lawsuit or to take any other legal action authorized by law.

§ 115.12 Penalties.

(A) Violations as Municipal Civil Infractions. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction, for which the fines shall not be less than \$100.00 nor more than \$500 for the first offense and not less than \$250.00 nor more than \$1,000.00 for subsequent offenses, in the discretion of the Court. Each day that a violation occurs constitutes a separate offense.

(B) Nuisance. A violation of this chapter is hereby declared to be a public nuisance *per se* and is hereby further declared to be offensive to the public health, safety, and welfare. All violations of this chapter shall be abated by a court of competent jurisdiction. Any activity that a permittee is authorized to perform pursuant to this ordinance that was conducted either prior to the enactment of this ordinance, or that is conducted after the enactment of this ordinance but without obtaining the required licensing provided for in this ordinance, shall be deemed to be an unauthorized and illegal use and therefore not entitled to legal nonconforming use status under any applicable provisions of the Village's ordinance.

(C) Civil Action. In addition to enforcing this chapter through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the 27th Circuit Court for the County of Oceana to abate or eliminate the nuisance *per se* or any other violation of this chapter. Any person determined by the Circuit Court to have violated this chapter shall be responsible for all costs, including actual reasonable attorney fees, incurred by the Village in the enforcement of this chapter. Such costs of enforcement shall constitute a lien against the parcel upon which the facility is located, and the Village Treasurer shall certify the costs of enforcement to the Tax Assessor or other responsible official, who shall place the same on the next tax roll. The costs of enforcement so assessed shall be collected in the same manner as general Village taxes.

Section 2. Severability. If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance, which shall be given effect without the invalid portion or application.

Section 3. Effective Date. This Ordinance shall become effective twenty (20) days after notice of adoption is published in a newspaper of general circulation within the Village.

AYES: Members: _____.

NAYS: Members: _____.

ABSENT: Members: _____.

ORDINANCE DECLARED ADOPTED.

Jeffrey Hodges, Village President
Village of Pentwater

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on _____, 2020, and I further certify that public notice of such meeting was given as provided by law.

Rande S. Listerman, Village Clerk
Village of Pentwater

**VILLAGE OF PENTWATER
COUNTY OF OCEANA, MICHIGAN**

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327 South Hancock Street, Pentwater, Michigan, on the ____ day of _____, 2021, at 6:00 p.m.

Members Present: _____.

Members Absent: _____.

The following ordinance and preamble were offered by Member _____ and supported by Member _____:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE VILLAGE OF PENTWATER ZONING ORDINANCE TO PROVIDE FOR DEFINITIONS AND PERMITTED USES IN THE C-3 CENTAL BUSINESS DISTRICT; TO PROVIDE FOR SEVERABILITY, REPEAL, AND AN EFFECTIVE DATE

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. Section 2.14 of the Village of Pentwater Zoning Ordinance is hereby amended to add the following definitions:

“Marihuana” means that term as defined in the Medical Marihuana Facilities Licensing Act (“MMFLA”), MCL 333.27101 *et seq.*, and as defined in the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”), MCL 333.27951 *et seq.*

“Marijuana” means "marihuana" as defined in the MMFLA and as defined in the MRTMA.

“Medical Marihuana Facilities Licensing Act” or “MMFLA” means the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, and the rules or emergency rules promulgated pursuant to the MMFLA.

“Michigan Medical Marihuana Act” or “MMMA” means the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, and the rules or emergency rules promulgated pursuant to the MMMA.

“Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*, and the rules or emergency rules promulgated pursuant to the MRTMA.

Section 2. Section 2.17 of the Village of Pentwater Zoning Ordinance is hereby amended to add the following definition:

“Provisioning Center/Retailer” means a person who operates as a “provisioning center” as defined in the MMFLA or as a “marihuana retailer” as defined in the MRTMA or as both at the same location under common ownership. A "Provisioning Center/Retailer" business may be established and operate only if specifically enumerated as a permitted use or a special land use within a zoning district by this Ordinance.

Section 3. Section 12.02 of the Village of Pentwater Zoning Ordinance is hereby amended to add and/or amend the following subsections:

(J) A Provisioning Center/Retailer business of less than ten thousand (10,000) square feet gross floor area conducting business within an enclosed building.

(K) Accessory buildings, structures, and uses for Permitted and Special Land uses, as regulated by Section 3.08.

Section 4. Severability. Should any section, clause, or paragraph of this ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the ordinance as a whole or part of it other than the part declared to be invalid.

Section 5. Repeal. All ordinances or part of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 6. Effective Date. This ordinance will become effective seven (7) days after its publication or seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

AYES: Members: _____.

NAYS: Members: _____.

ABSENT: Members: _____.

ORDINANCE DECLARED ADOPTED.

Rande S. Listerman, Village Clerk
Village of Pentwater

Jeffrey Hodges, Village President
Village of Pentwater

Mary Schumaker
549 Clymer St
Resident
Business owner, Lakeshore Salon
Chair of the Board, Village of Pentwater Downtown Development Authority

I fully support this initiative to allow Recreational marijuana shops in Pentwater and I encourage the Council members to as well.

This is a great opportunity to expand the diversity of our downtown businesses, as well as embrace the future at the same time while benefitting our community in many ways.

First and foremost, job, jobs, jobs, these establishments will create full time jobs, YEAR-ROUND for our Village. This is a huge positive, we need more good paying full time employment in our community, as well as year-round businesses. Being open year-round they will drive business into our other businesses that are open in the off season, these shoppers will go to restaurants, stop in shops, spend money, ect.

The Recreational Marijuana businesses are safe, clean, and extremely responsible, I have been to a number of them in other communities, so have many people I know. The businesses themselves are generally pretty upscale, there is nothing fishy, or seedy about them. Their clientele is diverse and ranges in age to people in their 20's to people in the 70's. Probably many people you know are visiting these shops. Why should we let other communities benefit from them and not Pentwater?

These business owners have to be responsible, the regulations and mandates around the sale of Marijuana has gotten more precise since the state first opened up to recreational sales.

Let's get past the stigma that is attached to marijuana, it was a completely false narrative, tall tales made up to scare people. There are so many more problems with alcohol then there ever will be with people who use marijuana. People who drink can become physically and verbally abusive to their spouses, family friends, even violent. This does not happen with marijuana, actually quiet the opposite.

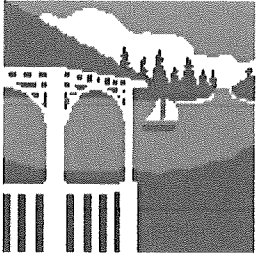
Let's get a head of the curve, let's take advantage of the opportunity. I encourage the council to support having dispensaries in Pentwater.

RECEIVED

MAY 12 2021

Village of Pentwater
By: *[Signature]*

PERMANENT
RECORD



VILLAGE OF PENTWATER

ON PENTWATER LAKE AND LAKE MICHIGAN

327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449

(231) 869-8301 FAX (231) 869-5120

www.Pentwatervillage.org

ZONING ADMINISTRATOR'S REPORT

July 2, 2021

The following is a summary of activity conducted by the Zoning Administrator in June 2021.

Code Enforcement – Nothing significant to report at this time.

Planning Commission - The Planning Commission met in-person on June 22, 2021 to:

- Approve the Special Land Use Request for the Pentwater Yacht Club with conditions.
- Approve the Preliminary Site Plan for the demolition and reconstruction of the Pentwater Yacht Club with conditions.
- Re-elect the same set of officers for the 2021-2022 year.

Zoning Board of Appeals - The Zoning Board of Appeals did meet in June, 2021.

Zoning Permits

The following Zoning Permits were issued in June of 2021:

1. ZP 21-23 was issued for a new Fire Barn at the Fire Department.
2. ZP 21-24 was issued for a picket fence at 110 W. Green Street.
3. ZP 21-25 was issued for a split-rail fence at 414 N. Rush St.
4. ZP 21-26 was issued for a covered porch at 347 S. Hancock.
5. ZP 21-27 was issued for a privacy fence at 233 S. Carroll St.
6. ZP 21-28 was issued for a shed replacement at 40 E. Fifth St.
7. ZP 21-29 was issued to enclose a deck at 635 Maple Lane in the Lakewood MHP.

Other

None.

Sincerely,

Keith J. Edwards

Keith Edwards
Zoning Administrator