

**TOWNSHIP OF PENN**  
**COUNTY OF CASS, STATE OF MICHIGAN**

**ORDINANCE NO. 2.8.2021**

**ADOPTED:** February 8<sup>th</sup>, 2021

**EFFECTIVE:** \_\_\_\_\_

**RECREATIONAL MARIHUANA ESTABLISHMENT ORDINANCE**

Purpose and Intent:

An ordinance to amend the Code of the Township of Penn by adding a new Chapter, *Recreational Marihuana Establishments*; to provide regulations regarding recreational (adult use) marihuana establishments; provide for means of cultivation, processing, transportation and testing of marihuana to adults (21 years of age and older) who qualify to obtain, possess and use marihuana for recreational purposes under Michigan Act;

Protect public health and safety through reasonable limitations on marihuana establishment operations and other regulated activity authorized by the Rules promulgated by the State as they relate to noise, air and water quality, neighborhood and consumer safety, security for the establishment and other regulated activity authorized by the Rules promulgated by the State and its personnel, and other health and safety concerns;

Protect residential neighborhoods by limiting the location and the concentration of types of marihuana establishments and other regulated activity authorized by the Rules promulgated by the State to specific areas of the Township;

Impose fees to defray and recover the cost to the Township for the administrative and enforcement costs associated with recreational marihuana establishments and other regulated activity authorized by the Rules promulgated by the State;

Coordinate with laws and regulations that may be enacted by the State addressing recreational marihuana;

Provide penalties for violation of this ordinance; to provide for severability amendment of this title;

To restrict the issuance of licenses for recreational marihuana establishments and other regulated activities authorized by the Rules promulgated by the State only to individuals and entities that have demonstrated an intent and ability to comply with this Ordinance; and

To provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for recreational (adult use) marihuana establishments in the Township of Penn pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 and to provide an effective date.

**PENN TOWNSHIP**  
**CASS COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I**  
**TITLE**

This ordinance shall be known as and may be cited as the Penn Township Recreational (Adult Use) Marihuana Establishment Ordinance.

**SECTION II**  
**PURPOSE**

The purpose of the ordinance is to regulate recreational (adult use) marihuana establishments in the Township in order to protect the public health, safety and general welfare of the Township's residents, to provide reasonable regulations regarding Township licensing of recreational (adult use) marihuana establishments, to provide a method to defray administrative costs of such establishments and to coordinate Township regulations and license approval with laws and regulations enacted by the State of Michigan. It is not the intent of this Ordinance to restrict or abrogate the protections for recreational (adult use) marihuana found in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

**SECTION III**  
**DEFINITIONS**

Words used herein shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

**SECTION IV**

## **RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENTS**

The following recreational (adult use) marihuana establishments may be authorized to operate within the Township of Penn by the holder of a state operating license, and the Township may issue a Township license for the same, subject to compliance with the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018), as may be amended, the Rules promulgated thereunder and this ordinance:

1. Unlimited outdoor growers shall be authorized in the Township which number may include Class A, B or C growers, in any combination.
2. Indoor growing operations in industrial zoning areas pursued in accordance to Michigan law, are limited to six (6) physical locations. Each licensee at a given indoor growing location may apply for unlimited growers licenses for that location.
3. Not more than ten (10) processors shall be authorized in the Township.
4. Unlimited secure transporters shall be authorized in the Township.
5. Unlimited safety compliance facilities shall be authorized in the Township.
6. No other license types as may be established by the Rules promulgated pursuant Initiated Law 1 of 2018, as amended, shall be authorized in the Township.

### **SECTION V**

## **RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT LICENSES**

1. All applicants for a Township recreational (adult use) marihuana establishment license shall be pre-qualified by the State of Michigan Marihuana Regulatory Agency and shall provide proof of such approval from the State prior to or upon applying to the Township for a Township license. In the event that an applicant already has a license from the State of Michigan for a medical marihuana facility license, the applicant does not need to obtain prequalification for a recreational (adult use) marihuana establishment license.
2. On and after February 28, 2021 the Township shall accept applications for a Township license to operate a recreational (adult use) marihuana establishment within the Township. Application shall be made on a Township form and must be submitted to the Township Clerk and/or other designee of the Township (hereinafter referred to as the "Clerk."). Once the Clerk receives a complete application including the initial annual recreational (adult use) marihuana establishment fee, the application shall be time and date stamped. All complete applications received on or after February 15, 2021, shall be considered for conditional authorization and/or Township licensure. In the event that more applications are submitted to the Clerk than the number of recreational (adult use) marihuana establishments authorized for Township licensure by this ordinance, the applications shall be considered by the Township Board pursuant to

the evaluation criteria contained in Section VI of this Ordinance. The Township Board shall consider an application for a recreational (adult use) marihuana establishment licensure within 30 days of the date of receipt of a complete application. Once the Township Board has determined which applications will be authorized for Township licensure (per Section V herein), any additional complete applications shall be held in abeyance for future conditional licensure. Any applicant waiting for future conditional licensure may withdraw their application by written notice to the Clerk at any time and may receive a partial refund of the initial annual medical marihuana fee submitted.

3. If a conditionally licensed applicant is denied a state operating license, then such conditional license will be canceled by the Clerk and the conditional license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section VI.
4. A conditionally licensed applicant shall receive a license from the Township to operate the recreational (adult use) marihuana establishment within the Township upon the applicant providing the Clerk proof that the applicant has received a state operating license for the recreational (adult use) marihuana facility in the Township and the applicant has met all other requirements of this ordinance for the operation of a recreational (adult use) marihuana establishment.
5. If a conditionally licensed applicant fails to obtain a license from the Township within six months from the date of conditional license, then such conditional license may be canceled by the Clerk and the conditional license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section VI. The Township Board shall have the authority to extend the deadline to obtain a Township license for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board making a finding of good cause for the extension.
6. A licensee shall not operate a recreational (adult use) marihuana establishment at any location in the Township other than the address provided in the application to the Township.

## **SECTION VI** **LICENSE EVALUATION CRITERIA**

In the event that the Township receives more applications for recreational (adult use) marihuana establishment licenses than are authorized by this ordinance, the Township Board shall review all applications to determine which of the applications are best suited to operate such establishment in the Township in compliance with Initiated Law 1 of 2018, as amended. In making such analysis, the Township Board shall consider the following criteria:

1. The applicant's experience in operating other licensed marihuana businesses in the

Township.

2. The applicant's experience in operating other licensed marihuana businesses in Cass County.
3. The applicant's experience in operating other licensed marihuana businesses in Michigan.
4. If the applicant is a resident of the Penn Township.
5. If the applicant is a resident of Cass County, Michigan.
6. An estimate of the number and type of jobs that the marihuana event organizer and/or temporary marihuana event is expected to create and the amount and type of compensation expected to be paid for such jobs.
7. Planned tangible capital investments in the Township, including if multiple licenses are proposed.
8. An explanation of anticipated economic benefits to the Township with supporting factual data.
9. The applicant's general business management experience.
10. The applicant's financial ability and/or means to operate or maintain a marihuana establishment.
11. Whether the applicant has been delinquent in paying taxes to the Township, Cass County and/or any other public entity in the past 10 years.
12. Whether the applicant has a history of non-compliance with any regulatory requirements in the Township of Penn, Cass County or elsewhere within the State of Michigan.

**SECTION VII**  
**GENERAL REGULATIONS REGARDING**  
**AUTHORIZED RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENTS**

1. A licensed recreational (adult use) marihuana establishment shall only be operated within the Township by the holder of a State operating license issued pursuant to Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018), as may be amended and the Rules promulgated thereunder. The facility shall only be operated as long as the State operating license and Township license both remain in effect.

2. Prior to operating a licensed recreational (adult use) marihuana establishment within the Township pursuant to a State operating license, the facility must comply with all applicable regulations, ordinances and codes.

3. Prior to operating an authorized recreational (adult use) marihuana establishment within the Township pursuant to a State operating license, the establishment must comply with all Township construction, building ordinances and zoning ordinances, all other applicable Township ordinances specifically regulating recreational (adult use) marihuana establishments and generally applicable Township regulatory ordinances and regulations. The establishment shall only be operated as long as it remains in compliance with all such ordinances and regulations now in force or which hereinafter may be established or amended.

4. If at any time a licensed recreational (adult use) marihuana establishment violates this ordinance, the Township Board may request that the State revoke or refrain from renewing the establishment's State operating license. Once such State operating license is revoked or fails to be renewed, the Clerk shall cancel the Township license and the license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section VI.

5. A recreational (adult use) marihuana establishment is not required to have any minimum setback from property lines beyond those already established for any building or operation within the Township, or those required by Michigan laws or regulations.

6. A recreational (adult use) marihuana establishment may co-locate with a medical marihuana facility, as authorized by Section 6, subsection 5 of the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018). However, a medical marihuana facility must meet requirements of Section 4, subsection 6, pertaining to location of such facilities.

7. A recreational (adult use) marihuana establishment shall prevent smoke, odors, debris, dust, noise, lights, glare, heat, other emissions or discharge from interfering with the reasonable and comfortable use and enjoyment of another's property. Whether smoke, odors, debris, dust, noise, lights, glare, heat, other emissions or discharge interfere with the reasonable and comfortable use and enjoyment of property shall be measured against the objective standards of a reasonable person of normal sensitivity.

8. A recreational (adult use) marihuana grower, processor and transporter may operate from a single location, as authorized by Section 6, subsection 5 of the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018), but in such case said establishment(s) shall be located in an area zoned for industrial or agricultural uses, as specified in Administrative Rule 24.

9. A marihuana retailer establishment is not authorized under this ordinance.

10. A microbusiness retailer component is not authorized under this ordinance.

11. All signage and advertising shall comply with Township of Penn, Cass County and/or MDOT regulations.

12. A licensed recreational (adult use) marihuana establishment shall consent to

inspection of the facility by Township officials, upon reasonable notice, to verify compliance with this ordinance.

13. The Township 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 number of licenses for recreational (adult use) marihuana establishments authorized to operate within the Township.

**SECTION VIII**  
**ANNUAL RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT FEE**

There is hereby established an annual nonrefundable Township recreational (adult use) marihuana establishment fee in the amount of \$5,000, for each licensed recreational (adult use) marihuana establishment and/or grower permit within the Township, to help defray administrative and enforcement costs associated therewith. An initial annual recreational (adult use) marihuana establishment fee of \$5,000 shall be payable at the time of application for Township authorization and thereafter the same amount shall be payable each year on or before January 5<sup>th</sup>. The sixth and any subsequent grower permit for a single location is \$3500.

**SECTION IX**  
**NONRENEWAL, SUSPENSION, REVOCATION, APPEALS**

1. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized recreational (adult use) marihuana establishment a vested right, privilege or permit to continued licensure from the Township for operations within the Township.

2. Each license is exclusive to the licensee and cannot be sold or transferred. The attempted transfer, sale or other conveyance of an interest in a license without prior approval of the Planning Commission and/or Township Board is grounds for suspension or revocation of the license or for other appropriate sanction.

3. The Township Board, after notice and hearing, may suspend, revoke or refuse to renew a license for any of the following reasons:

- a. The applicant or licensee, or his/her agent, manager or employee, has violated, does not meet or has failed to comply with any of the terms, requirements, conditions of provisions of this ordinance or with any applicable state or local law or regulation;
- b. The recreational (adult use) marihuana establishment has operated in a manner that adversely affects the public health, safety and welfare.

4. Evidence to support a finding for nonrenewal, suspension or revocation of a license may include, without limitation, a continuing pattern of conduct of drug related criminal complaints within the premises of the recreational (adult use) marihuana establishment or in the immediate surrounding area or an ongoing nuisance condition emanating from or caused by a recreational (adult use) marihuana establishment.

5. An applicant may appeal any Township decision regarding licensure, nonrenewal, suspension or revocation of a license to the full Township Board, upon written request. An applicant requesting such appeal shall submit the request in writing to the Township Clerk, which request shall include reasons for the appeal. The Township Clerk shall, within a reasonable time, thereafter, provide notice to the applicant of the time and date of the Township Board meeting at which the appeal will be heard. At such Township Board meeting, the applicant will have the opportunity to present his/her case supporting their appeal request.

## **SECTION X** **VIOLATIONS AND PENALTIES**

1. Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$500 for subsequent offenses, in the discretion of the Court. For purposes of this section, “subsequent offenses” means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction. This section is not intended to conflict with the penalty provisions in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

5. This ordinance shall be administered and enforced by the Township’s Ordinance Enforcement Officer, County Police Officers, State Law enforcement and Code Enforcement officers or by such other person (s) as designated by the Township Board from time to time.

## **SECTION XI** **SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing recreational (adult use) marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act (Initiated Law



1 of 2018).

**SECTION XII**  
**REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION XIII**  
**EFFECTIVE DATE**

This ordinance shall take effect thirty days after publication after adoption.

\_\_\_\_\_, Clerk  
Penn Township