

Q&A About Recreational Marijuana Businesses in the Village of Pinckney

Q: Is the Village an “opt in” or “opt out” community?

A: The Village of Pinckney is an “opt out” community. The Village Council voted to opt out when the Michigan Regulation and Taxation of Marijuana Act (MRTMA) was passed in 2018, taking a “wait and see” stance (see the minutes [here](#)). The State of Michigan had no provisions for licensing and regulation in place. Council thought it would be prudent to wait until these were developed. (Read the MRTMA starting here: [http://www.legislature.mi.gov/\(S\(avpgx552gfzbcfuexplroh1\)\)/mileg.aspx?page=getobject&objectname=mcl-333-27951](http://www.legislature.mi.gov/(S(avpgx552gfzbcfuexplroh1))/mileg.aspx?page=getobject&objectname=mcl-333-27951))

Q: Does being an “opt out” community prohibit the possession or consumption of marijuana and/or cannabis products in the Village for medical reasons or for recreation as provided in the MRTMA?

A: No.

Q: Had any residents requested that the Council consider becoming an “opt in” community prior to this petition?

A: No.

Q: Who started the petition?

A: A ballot initiative group based in Lansing and established especially for this petition, “Jobs for Pinckney.”

Q: When and where was this petition circulated?

A: The petition was circulated in a wide area in and around the Village only on July 23 and July 27, 2020. The deadline for ballot petitions was July 28. Paid circulators canvassed the area and gathered around 250 signatures, of which 78 were valid registered voters in the Village. The MRTA requires 5% of eligible voters (for the Village, 53) to sign for the question to go to the ballot.

Q: What does the ballot proposal call for?

A: The proposal requires adoption of an ordinance. (The full text is available for review on the Village website [here](#).) Village attorneys have indicated that the regulatory provisions in the ordinance exceed the scope of a ballot initiative of the 2018 Michigan Regulation and Taxation of Marijuana Act, which is limited to the number of establishments allowed.

Q: What IS in the ordinance, then?

A: To summarize, the proposed ordinance sets the number of marijuana-based business in the Village to up to ten (10). It would further require the Village Clerk to develop systems for licensing and regulating these businesses, within 30 days of the initial application window (Sec. 7), and to award at least three licenses within that timeframe.

There are numerous references in the ordinance that provide for programs for communities “which have been disproportionately impacted by marijuana prohibition and enforcement.” The State of Michigan identifies 184 geographical communities, but Pinckney is not one of them, and there are none in Livingston County (https://www.michigan.gov/mra/0,9306,7-386-93535_93538-500313--,00.html). The parts of the ordinance referring to that and “Community Benefits” programs therefore do not apply. Jobs for Pinckney identifies two classes of persons with regard to “communities that have been disproportionately impacted,” that qualify under the ordinance -- registered caregivers and individuals with cannabis related convictions.

Q: Why did Jobs for Pinckney sue the Village Clerk and Council?

A: Council rejected the petition because the proposed ordinance exceeded the scope of a ballot initiative under the MRTMA, and therefore the Village Council lacked the legal authority to put the proposal on a ballot.

Q: What happened with the court cases?

A: Jobs for Pinckney sued the Village alleging that the Village Council and Village Clerk had a clear legal duty to put the ballot language on the November ballot. The Circuit Court determined that the Village had no duty to certify the proposed ballot language for inclusion on the ballots, which determination was affirmed by the Court of Appeals. Jobs for Pinckney attempted to sue the Putnam Township Clerk, but the case was dismissed as having been filed late. On appeal, the Court of Appeals ordered that the Circuit Court order the Township Clerk to certify the ballot language. The County Clerk rejected the proposal that was certified by the Township Clerk, as it was presented too late to have ballot materials delivered in time, and the ballots had already been printed. Jobs for Pinckney then sued the County Clerk to include the ballot language, but the case was dismissed. On appeal, the Court of Appeals remanded with direction that the Circuit Court order the County Clerk to include the proposal on the ballot. The County Clerk chose not to request a stay and appeal to the Michigan Supreme Court, and reprinted the ballots for the Village as ordered by the Circuit Court on remand from the Court of Appeals.

Q: How much money does the Village stand to make from these businesses?

A: There are license fees and tax revenue to consider. The proposed ordinance would limit application fees to \$100. The MRTMA allows municipalities to charge up to \$5,000 per license. The ordinance says maximum \$4,900 (plus the initial \$100, or \$5,000).

The State collects the state sales tax and the excise tax. After the State pays for the operations of its licensing agency, it will distribute funds based on the chart in the MRTMA (see below). The amount the Village gets is dependent on the number of municipalities allowing marijuana businesses statewide, and the number of businesses in each of those. The State started issuing licenses in November 2019, so a full tax year has not gone by for hard data. Projections cited by Jobs for Pinckney estimate statewide distributions of \$18 million in 2021.

Upon appropriation, unexpended balances must be allocated as follows:

- (a) 15% to municipalities in which a marijuana retail store or a marijuana microbusiness is located, allocated in proportion to the number of marijuana retail stores and marijuana microbusinesses within the municipality;
- (b) 15% to counties in which a marijuana retail store or a marijuana microbusiness is located, allocated in proportion to the number of marijuana retail stores and marijuana microbusinesses within the county;
- (c) 35% to the school aid fund to be used for K-12 education; and
- (d) 35% to the Michigan transportation fund to be used for the repair and maintenance of roads and bridges.

([http://www.legislature.mi.gov/\(S\(avpgx552gfzbcfueexplroh1\)\)/mileg.aspx?page=getobject&objectname=mcl-333-27964](http://www.legislature.mi.gov/(S(avpgx552gfzbcfueexplroh1))/mileg.aspx?page=getobject&objectname=mcl-333-27964))

See additional calculations and examples in this document: [https://www.michigan.gov/documents/treasury/RAB_2019-17 - Taxation of Recreational Marihuana 671867 7.pdf](https://www.michigan.gov/documents/treasury/RAB_2019-17_-_Taxation_of_Recreational_Marihuana_671867_7.pdf)

Q: What is the ballot language and what does it mean?

A: The ballot language is:

“A proposal, if adopted, to provide for the number of Marijuana establishments within the Village, including regulatory and application provisions incidental to a system of safe and legal access to marijuana within the municipality. Shall the proposal be adopted?”

What does it mean? Section 6 of the MRTMA allows that “Individuals may petition to initiate an ordinance to provide for the number of marijuana establishments allowed within a municipality...,” but does not call for or allow “...regulatory and application provisions...” The ballot language and the ordinance were developed by Jobs for Pinckney.