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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

September 22, 2021

Board of Trustees
Charter Township of Waterford
5200 Civic Center Drive
Waterford, MI 48329

RE: Amendments to Medical Marihuana Facilities Licensing ("MMFL") Ordinance
Agenda Item 5.1 on the September 27, 2021 Agenda

Dear Township Board Members:

At the September 13, 2021 meeting you directed me to draft an amendment to the MMFL Ordinance to add up to four provisioning center licenses and to make other changes as necessary to incorporate this license increase into the Ordinance. This letter provides an overview of the suggested changes to the Ordinance to incorporate an application and review process for additional licenses. I have also provided a redlined copy of the proposed amendment for you to distinguish the changes from the current Ordinance language. The changes recommended are as follows:

1. **Definition:** Add a definition for supplemental Application. It is suggested that this type of application be allowed within one year after previous applications were denied by the Board.
2. **Overview:** Clarify that the review process for supplemental applications may be limited to information indicated on the supplemental application as having changed since the prior application submission or amendment.
3. **Application Requirements for Newly Available Licenses:** Include supplemental applications in the review process. Indicate that supplemental applications will be considered by the Board before new applications. Unless a different time is established by Resolution, indicate that applications and supplemental applications for new licenses available because of an increase in the number of licenses, must be submitted no later than 30 days after the Ordinance amendment is adopted. Address new applications that become available because of expiration of a prior license approval, surrender or revocation of a license. In these circumstances, the Township Clerk will place the question on the Board Agenda as to whether applications should be allowed for these newly available licenses.
4. **License Review Process:** Add a requirement that in addition to the Township Clerk, the Public Works Official, Treasurer and Assessor will be involved in the initial review of an application and supplemental application, to determine if an application meets the

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minimum requirements of Section 10-299. Increase the time period permitted for this initial review from 20 to 30 days.

5. **Procedure:** Indicate that supplemental applications will be considered in the order they were considered in the prior review process.

I hope that these proposed changes reflect the process you contemplated should additional licenses become available. I expect to be present at your meeting to provide any assistance you may request.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Joellen Shortley

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**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2021-003**

MEDICAL MARIHUANA FACILITY LICENSING ORDINANCE AMENDMENT

An Ordinance to amend the Medical Marihuana Facility Licensing Ordinance codified in Division 12 of Article III in Chapter 10 of the Waterford Charter Township Code to increase the maximum number of authorized provisioning center licenses that may be approved and issued from two (2) to six (6) and provide for making, review, and decisions on new and renewed applications for the additional licenses.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The Waterford Charter Township Code is amended by adding a definition of Supplemental Application in Subsection 10-294 (b) to read as follows:

Supplemental Application means a form, documents, and fee submitted to the Township Clerk to update and rely on a previously denied Application as an Application for a newly available facility license if all of the following requirements are satisfied:

- (a) The previous denial was final no more than one (1) year before the submittal.
- (b) The submittal was within any time required in this Ordinance and any Township Board Resolution allowing applications for the newly available license.
- (c) The submittal includes all forms, documents, and fees required by this Ordinance and any Township Board Resolution allowing applications for the newly available license.

Section 2 of Ordinance

The Waterford Charter Township Code is amended by changing Subsection 10-298(a) to read as follows:

Sec. 10-298. Authorized medical marihuana facilities, licenses, annual fee, and limitations.

- (a) As provided in Section 205 of the Act, MCL 333.27205, the types and maximum number of medical marihuana facilities allowed in the Township for which the Township may issue a license are as follows:

<u>Type of Facility</u>	<u>Maximum Number</u>
Grower	2
Processor	2
<u>Provisioning Center</u>	<u>6</u>
Safety Compliance Facility	2
Secure Transporter	2

- (b) – (f) [Unchanged]

Section 3 of Ordinance

The Waterford Charter Township Code is amended by changing Subsections 10-300(a) and (b) to read as follows:

Sec. 10-300. Overview of license application, approval and issuance procedure.

- (a) The license procedure involved four (4) stages which are: (i) Application to Township Clerk, (ii) Application review and processing by Township personnel (iii) Decision on license application by Township Board, and (iv) License issuance by Township Clerk. Supplemental Applications shall involve the same four (4) stages, however the review and processing by Township personnel may be limited to information indicated in the Supplemental Application as having changed since the submission of the Application, as last amended prior to its denial.
- (b) A license application shall not be filed with or accepted by the Township Clerk for filing if it is for a type of facility license that is not available because the number of authorized licenses for that type of facility under Section 10-298 have already been issued by the Township Clerk or approved for issuance by Township Board decisions that have not expired, or for newly available licenses as described in Section 10-301(g), unless the Township Board has allowed applications as provided in that Section.
- (c) – (e) [Unchanged]

Section 4 of Ordinance

The Waterford Charter Township Code is amended by changing Subsections 10-301(a) and (b) and (g) to read as follows:

Sec. 10-301. License application requirements.

- (c) Upon the personal delivery of the signed paper original and electronic version of an Application or Supplemental Application and nonrefundable application fee, the Township Clerk’s office shall stamp or record the date and time of that delivery on the Application form and provide a copy of that to the person delivering the Application. The Clerk’s office shall not stamp or record an Application as filed without the required paper original and electronic version and application fee.
- (d) The Township Board will only consider and act on Applications that are administratively complete as required in subsection (b), and in the case of multiple applications for the same type of facility license, will consider them in the order they were administratively completed with the Clerk’s office. Timely and complete Supplemental Applications shall be considered before new Applications for the same newly available license(s) and shall be placed on a Township Board Agenda for consideration in the same order as they were first considered in the prior review process. Named Applicants assume all risks of an administratively incomplete filing. The Clerk’s office has no obligation or duty to review and determine if an Application is administratively complete prior to accepting it for filing.
- (g) If a previously unavailable type of facility license becomes available due to (i) an amendment of Section 10-298(a), (ii) expiration of a Township Board license approval prior to license issuance, (iii) surrender or revocation of a license, or (iv) other circumstances, the following procedures and requirements shall apply:
 - (1) Unless a different time is established by Resolution of the Township Board, Applications and Supplemental Applications for licenses made available by an amendment

of Section 10-298(a), must be submitted to the Township Clerk no later than 30 days after the effective date of that amendment.

(2) If a license becomes available due to expiration of a prior approval, surrender, revocation, or otherwise, the Township Clerk shall place the question of whether applications should be allowed for the newly available license or licenses, on a regular Agenda of the Township Board, and if so, to establish by Resolution the procedures and requirements to be followed including a deadline for submittal of Applications and Supplemental Applications.

(3) The form, documents, and fees required for a Supplemental Application may be established by Resolution of the Township Board.

(e) – (f) [Unchanged]

Section 5 of Ordinance

The Waterford Charter Township Code is amended by changing Subsections 10-302(a), (b), and (d) to read as follows:

Sec. 10-302. License application review and processing.

- (a) The Township Clerk's office shall review Application and Supplemental Application forms and attachments, with assistance from the Public Works Official, Treasurer and Assessor as to compliance with the minimum requirements in Sec. 10-299, and within 30 business days after accepting the Application or Supplemental Application for filing, will notify the Named Applicant in writing if the Application form is not administratively complete or any of the Application attachments specified in Section 10-301(b) (1) through (24) are missing, have not been submitted in the required order, or are incomplete due to the absence of some responsive language or document for each. That review shall not be for the sufficiency or substance of the responsive language or document. Corrective or supplemental application documents submitted in response to such a notice shall be reviewed by the Clerk's office within 10 business days of receipt. If still administratively incomplete, the Clerk's office shall issue a final notice of such incompleteness and opportunity for correction to the Named Applicant. If the Application is not administratively complete within 10 business days of that notice, it shall be treated and considered as abandoned and the application fee shall be forfeited to the Township. Only administratively complete Applications and Supplemental Applications shall be distributed by the Clerk's office for review as provided in this section. Supplemental Applications shall follow the same review process in subsection (b) for all information that has been identified by the applicant as having changed.
- (b) Upon determining an Application or Supplemental Application to be administratively complete, the Clerk's office shall distribute copies to the following Township personnel for review investigation, and submission of reports to the Clerk's office within 60 days, or longer time approved by the Township Board based on the number of Applications to be reviewed, Supplemental Applications need only be reviewed by Township personnel regarding the updated information and changes disclosed by the Applicant:

(b) (1)- (10) [Unchanged]

(d) Upon receiving the reports required by subsection (b), the Clerk shall place the application or Supplemental Application on the Agenda of a regular meeting of the Township Board in accordance with the following:

(1) If it is the only administratively complete application that has been filed with the Clerk for that type of facility license as determined under Section 10-302(a), it shall be placed on the next Agenda that is at least 10 days after the last report was received.

(2) Except for timely and completed Supplemental Applications which shall be considered before new Applications for newly available licenses as provided in Section 10-301(d), if at the time the last report is received there are one or more other administratively complete applications that have been filed with the Clerk for that type of facility license, it shall be placed on the first regular meeting Agenda that is at least 10 days after the Clerk receives the last review report by Township personnel for those other applications.

(3) The Clerk shall provide written notice to the Named Applicant of the date and time of that meeting and that an authorized representative of the Named Applicant must be in attendance.

(c) [Unchanged]

Section 6 of Ordinance

The Waterford Charter Township Code is amended by changing Subsections 10-303 (b), and (c) to read as follows:

Sec. 10-303. Township Board procedure and decision on applications.

(b) At its first meeting to consider an application for a facility license, or a Supplemental Application for a facility license, the Township Board may:

(1) Refer the application and reports and any other applications and reports for the same type of facility license to a committee with no more than three (3) members of the Board for further review, investigation, and/or a recommendation.

(2) Refer the application and reports and any other applications and reports for the same type of facility license to the Township Attorney for review.

(3) Request additional information from or ask questions of the Named Applicant regarding the application.

(4) Postpone consideration of the application and any other applications and reports for the same type of facility license to a future meeting.

- (5) Make a decision on the application.
- (c) If the Board is considering multiple applications for the same type of facility license, it shall consider those in the order in which the applications were administratively completed as determined under Section 10-302(a). However, if Supplemental Applications are permitted and received, the Supplemental Applications shall be considered before the new applications and shall be considered in the order they were considered in the prior review process. If as a result of the Board approving an application, there are no remaining authorized licenses for that type of facility under Section 10-298, the remaining applications for that type of license shall be denied for that reason. If the Board's approval of another application was with conditions under subsection (e), the denial of the other applications shall be subject to the approved Named Applicant accepting those conditions in the time and manner required by subsection (h). If the Approved Named Applicant does not do that, the remaining applications shall be placed for Consideration on the Agenda for the next regular Township Board meeting that is at least 10 days after the approved Named Applicant's deadline for acceptance of the conditions.
- (a), (d)-(i) [Unchanged]

Section 7 of Ordinance

Should any part of this ordinance be declared invalid by a Court, it shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 8 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on _____, 2021.

CHARTER TOWNSHIP OF WATERFORD

_____, 2021

By: _____
Kimberly F. Markee, Township Clerk