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ROSATI | SCHULTZ
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June 21, 2023

Planning Commission
Charter Township of Waterford
5200 Civic Center Drive
Waterford, MI 48329

RE: Zoning Ordinance Amendments to Regulations for Medical Marihuana and Adult Use Marihuana Establishments Regulations

Dear Planning Commission Members:

During your June 27, 2023, meeting you will be considering two Zoning Ordinance amendments. The purpose of the adult use marihuana establishments amendment is to allow these establishments to be permitted uses in the Zoning Ordinance. The Township currently prohibits their use. The amendment to the regulations for medical marihuana is to provide consistency in both regulations for the site plans review procedures.

The Board of Trustees held two recent study sessions to discuss the possibility of introducing an ordinance to permit Adult Use Marihuana Establishments in Waterford. A majority of the Board determined that they would like to move forward with the possible introduction of such an ordinance on July 10. The Board is waiting to introduce this ordinance until after the Planning Commission has had the opportunity to make a recommendation to the Board on these proposed Zoning Ordinance amendments.

The Board determined that they would like to have the Planning Commission perform a site plan review of proposed adult use marihuana establishments before the application for a Township license is considered by the Board of Trustees. The proposed adult use establishments ordinance will require the adult use establishments to also have a medical marihuana license. Four medical marihuana facilities have received a Township license, while two others have conditional approval to receive a Township license. The Planning Commission has already reviewed the site plans of these medical marihuana facilities. Therefore, it is likely that review for a facility that would like to be an adult use establishment, will be a change of use review.

Once the Planning Commission has made a recommendation on the site plan review for a proposed adult use establishment, your recommendation will be provided to the Board of Trustees for their consideration during their review of the license application. This recommendation process will be a special circumstance in the Zoning Ordinance and will only apply to the site plans of marihuana businesses.

To provide uniformity between the medical marihuana facility regulations and the adult use establishment regulations, it was decided that the Planning Commission should also review

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medical marihuana site plans prior to an application for a medical marihuana facility being considered by the Board. If the Board allows additional medical marihuana facility license applications in the future, the Planning Commission will review the site plans before the Township Board determines whether or not it wishes to conditionally approve a license. At this point, the Board of Trustees has not established a period to accept new medical marihuana applications but may do so in the future.

If the Board of Trustees adopts an adult use establishments ordinance on July 17, the Planning Commission may be considering site plan applications for proposed adult use establishments during your July 25, 2023, meeting.

Please contact me if you have any questions. I will be in attendance during your meeting if need assistance with this process.

Sincerely yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Joellen Shortley

Joellen Shortley

cc: Jeffrey Polkowski, Superintendent
Planning & Zoning

**MOTION TEMPLATE FOR PLANNING COMMISSION CASE NO. 23-06-03,
Proposed ZONING ORDINANCE AMENDMENT, by amending
SECTION 1-007 Index of Defined Terms; SECTION 3-7 Commercial Zoning
Districts; SECTION 3-8 Higher Intensity Use Zoning Districts; and
establishing SECTION 3-605, Regulations for Adult Use Marihuana
Establishments:**

Motion

I move to forward a **favorable / unfavorable [Strike One]** recommendation in Case No. 23-06-03 on to the Township Board, to amend the Zoning Ordinance for the Index of Defined Terms; Commercial Zoning Districts; Higher Intensity Use Zoning Districts; and establishing Regulations for Adult Use Marihuana Establishments on the findings and conclusions under the Ordinance approval recommendation guidelines which are based on assessment of the information and statements presented in this case by the Township Staff, and members of the public.

***With us there are no
boundaries***

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WATERFORD

ORDINANCE NO. 2023-Z-013

**ADULT USE MARIHUANA ESTABLISHMENT TEXT AMENDMENTS
TO ZONING ORDINANCE**

An Ordinance to amend the Waterford Township Zoning Ordinance No. 135-A (“Zoning Ordinance”) to add definitions, land use regulations, conditions, and approval and fee requirements to allow and reasonably regulate licensed adult use marihuana establishments consistent with state laws.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 1-007, Index of Defined Terms, of the Waterford Township Zoning Ordinance is amended to add Marihuana Adult Use Establishment Uses and Defined Terms to read as follows:

MARIHUANA ADULT ESTABLISHMENTS USES DEFINED TERMS.

Adult Use Marihuana Establishment. A specific location that has and is in compliance with medical marihuana and adult use marihuana state and township license to operate as a medical/adult use grower, medical/adult use safety compliance facility, medical/adult use processor, provisioning center/retailer or medical/adult use secure transporter.

Adult Use State License. A license issued under the MRTMA allowing a person to operate an adult use marihuana grower, processor, retailer, safety compliance establishment or secure transporter.

Adult Use Marihuana Establishment Township License. A license issued by the Township under the Marihuana Adult Use Establishment Licensing Ordinance codified in Division 13 of Article III in Chapter 10 of the Waterford Charter Township Code of Ordinances.

Licensed Marihuana Adult Use Grower. An establishment that has and is in compliance with medical and adult use marihuana state and township licenses, and is in compliance with the MMFLA, MRTMA, Rules, and Tracking Act, that cultivates, sells or otherwise transfer marihuana to licensed marihuana establishments.

Licensed Marihuana Adult Use Processor. An establishment that has and is in compliance with medical and adult use marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA MRTMA, Rules, and Tracking Act, which is licensed to obtain marihuana from marihuana establishments; process and package marihuana; sell or otherwise transfer marihuana to marihuana establishments.

Licensed Marihuana Retailer. An establishment that has and is in compliance with medical and adult use marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA, Rules, and Tracking Act, which is licensed to obtain marihuana from marihuana establishments to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Licensed Marihuana Adult Use Safety Compliance Establishment. An establishment that has and is in compliance with medical and adult marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA, MRTMA, Rules, and Tracking Act, which is licensed to test marihuana from marihuana including certification for potency and the presence of contaminants.

Licensed Marihuana Adult Use Secure Transporter means an establishment that has and is in compliance with medical and adult use marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA, MTRMA, Rules, and Tracking Act, which stores and transports medical marihuana between facilities for a fee.

MRTMA. The Michigan Regulation and Taxation of Marihuana Act, 2018 Initiated Law 1, MCL 333.27951 et seq.

Rules. The administrative rules promulgated to implement the MMFLA and MRTMA, R 420.1 et. seq.

Section 2 of Ordinance

A new Section 2-605, Regulations for Adult Use Marihuana Establishments, is added in Division 2-6, Use Restrictions Applicable to all Zoning Districts, to read as follows:

SECTION 2-605. REGULATIONS FOR ADULT USE MARIHUANA ESTABLISHMENTS

1. Purpose and Intent. The purpose and intent of this Section is to summarize where adult use marihuana establishments, as defined in Section 1-007 under Marihuana Adult Use Establishment Uses and Defined Terms, may be located under this Ordinance and establish approval procedures and regulations that must be complied with for an Adult Use Marihuana Establishment to be allowed as a permitted use.

2. Approval Procedures, Conditions, Fees.

- A. All adult marihuana establishments use must be approved under the site plan review procedures and requirements in Section 4-004. An Adult Use Marihuana Establishment use of a zoning lot shall be reviewed under the Site Plan Review Procedures and Requirements in Section 4-004.

- B. Compliance with all regulations in this Section shall be shown on the site plan or otherwise documented in the site plan approval application, with such compliance to be a condition of every certificate of zoning approval or occupancy and every permit issued by the Township for that use.
- C. The regulations in this Section are regulations related to the use of land, from which variances may not be granted. If an adult use establishment is proposed for a building or zoning lot that is nonconforming, Section 2-702 shall apply in determining the level of required compliance with the regulations in this Section.
- D. In addition to the fees that apply to site plan review, if to demonstrate compliance with the regulations in this Section, a review or inspection by a Township employee or official is necessary before the site plan application can be completed, the applicant shall also pay the fees associated with that review or inspection in the amount established by resolution of the Township Board.
- E. Upon review under Section 4-004 the Planning Commission shall make a recommendation to the Board of Trustees as to whether they recommend or do not recommend change of use approval. The Board of Trustees shall make the final decision as to whether a change of use shall be granted and whether a Township Adult Use Establishment License shall be issued.

3. Use Regulations for all Licensed Adult Use Marihuana Establishment Uses.

Compliance with the following use regulations is required for licensed adult use marihuana growers, processors, retailers, safety compliance establishments, and secure transporters to be a permitted use in the zoning districts in which they are allowed:

- A. The Medical Marihuana Township License and the standards, terms, and conditions of that license under Section 10-306 of the Waterford Charter Township Code and the Medical Marihuana State License.
- B. The vehicle, signs, fences, and screening and landscaping regulations in Section 3-702 for commercial zoning districts and 3-802 for higher intensity use zoning districts, with temporary and portable signs prohibited and Planning Commission enhancements, reductions, or waivers of screening and landscaping requirements are not allowed.
- C. The applicable provisions of the Engineering Standards and Site Planning and Landscape Design Standards established under Sections 5-003 and with Division 2-4 and Division 2-8.
- D. All use, operations, and storage shall be in a fully enclosed building, with no marihuana to be visible from outside the building. However, contactless and limited contact service is permitted for retailers to accept online and telephone orders and payments for the order as well as curbside pick-up at the retailer location. The designated area for curbside service must be identified in the retailer scaled site and

building plan and provided for in the security plan.

- E. The smoking, inhalation, and consumption of marihuana on the premises is prohibited.
- F. The retail sale of marihuana and other products on the premises is prohibited with the exception of retailers where the retail sale of marihuana or paraphernalia for the use of marihuana is allowed.
- G. The Adult Use Marihuana State License and the MRTMA, Rules, and Tracking Act.

4. Licensed Adult Use Marihuana Growers. Licensed adult use marihuana growers are permitted on zoning lots in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-806.4.K, 3-807.4.K, and 3-709.3.D(7) of this Ordinance if the use regulations in subsection 3 are complied with.

5. Licensed Adult Use Marihuana Processors. Licensed adult use marihuana processors are permitted on zoning lots in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-806.4.K, 3-807.4.K, and 3-709.3.D(7) of this Ordinance if the use regulations in subsection 3 are complied with.

6. Licensed Adult Use Marihuana Retailer. Licensed adult use marihuana retailers are permitted on zoning lots in the C-2, Small Business, C-3, General Business, C-4, Extensive Business, and Summit Place Overlay Districts as provided in Sections 3-704.3.N, 3-705.3.U, 3-706.3.Z, and 3-709.3. of this Ordinance if the use regulations in subsection 3 and the following regulations are complied with:

- A. Restricted access areas that are not open to the public must be clearly marked and enforced.
- B. Drive through provisioning centers are prohibited.
- C. No free marihuana, paraphernalia, or other products shall be offered or distributed at or by the retailer.

7. Licensed Adult Use Marihuana Safety Compliance Establishment. Licensed adult use marihuana safety compliance establishments are permitted on zoning lots in the HT-1, High Tech Office, HT-2, High Tech Industrial and Office, M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-804.3.K, 3-805.3.K, 3-806.3.H, 3-807.3.E, and 3-709.3.D(8) of this Ordinance if the use regulations in subsection 3 are complied with.

8. Licensed Adult Use Marihuana Secure Transporters. Licensed medical marihuana secure transporters are permitted on zoning lots in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-806.3.H, 3-807.3.E, and 3-709.3.D(8) of this Ordinance if the use regulations in subsection 3 are complied with.

Section 3 of Ordinance

Section 3-704.3 of the Waterford Township Zoning Ordinance that lists permitted principal uses in the C-2, Local Business District, is amended to add a new subsection N to read as follows:

- N. Licensed adult use marihuana retailers that comply with the applicable regulations in Section 2-605 (*See Marihuana Adult Use Establishments and Defined Terms in Section 1-007*).

Section 4 of Ordinance

Section 3-705.3 of the Waterford Township Zoning Ordinance that lists permitted principal uses in the C-3, General Business District, is amended to add a new subsection U to read as follows:

- U. Licensed adult use marihuana retailers that comply with the applicable regulations in Section 2-605. (*See Marihuana Adult Use Establishments and Defined Terms in Section 1-007*).

Section 5 of Ordinance

Section 3-706.3 of the Waterford Township Zoning Ordinance that lists permitted principal uses in the C-4, Extensive Business District, is amended to add a new subsection Z to read as follows:

- Z. Licensed adult marihuana retailers that comply with the applicable regulations in Section 2-604. (*See Marihuana Adult Use Establishments and Defined Terms in Section 1-007*).

Section 6 of Ordinance

Section 3-709.3.D of the Waterford Township Zoning Ordinance that identifies the uses permitted in the M-1, Light Industrial District that are permitted principal uses in the Summit Place Overlay Zoning District, is amended to read as follows:

- D. The following permitted principal uses and permitted uses after wellhead protection compliance that are listed in Sections 3-806.3 and 3-806.4 as allowed in the M-1 District:
 - (1) Freight handling facilities with direct access, including by an internal street in the District, to a major arterial street.
 - (2) Heavy equipment rental establishments that are conducted within the principal building and do not utilize outdoor display or storage of vehicles, machinery, or equipment.
 - (3) Outdoor storage as an accessory use for freight handling facilities permitted under subsection D (1), with no requirement that such

storage be located to the rear of the principal building, but subject to the following:

(a) The outdoor storage is in trailers parked in designated trailer parking spaces or truck docks on the site.

(b) The outdoor storage is temporary, with stored items to be in the trailer that was or will be used to transport those items to or from the site.

(c) The outdoor storage shall not be located in a yard between the principal building for the use and Telegraph Road, Elizabeth Lake Road, Summit Drive, or an adjacent existing residential use.

(d) No truck shall be stored on the site for more than 15 consecutive days.

(4) Licensed medical marihuana secure transporters and licensed medical marihuana safety compliance facilities that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*

(5) Licensed medical marihuana growers and licensed medical marihuana processors after wellhead protection compliance that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*

(6) Up to six (6) medical marihuana primary caregivers after wellhead protection compliance that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*

(7) Licensed adult use marihuana secure transporters and licensed adult use marihuana safety compliance facilities that comply with the applicable regulations in Section 2-605. *(See Adult Use Marihuana Establishments and Defined Terms in Section 1-007).*

(8) Licensed adult use marihuana growers and licensed adult use marihuana processors that comply with the applicable regulations in Section 2-605. *(See Adult Use Marihuana Establishments and Defined Terms in Section 1-007).*

Section 7 of Ordinance

Section 3-804.3 of the Waterford Township Zoning Ordinance that lists permitted principal uses in the HT-1, High Tech Office District, is amended to add a new subsection K to read as follows:

K. Licensed adult use marihuana safety compliance facilities that comply with the applicable regulations in Section 2-605. *(See Adult Use Marihuana Establishments and Defined Terms in Section 1-007).*

Section 8 of Ordinance

Section 3-805.3 of the Waterford Township Zoning Ordinance that lists permitted principal uses in the HT-2, High Tech Industrial and Office District, is amended to add a new subsection K to read as follows:

- K. Licensed adult use marihuana safety compliance facilities that comply with the applicable regulations in Section 2-605. (*See **Adult Use Marihuana Establishments and Defined Terms in Section 1-007***).

Section 9 of Ordinance

Section 3-806.3 of the Waterford Township Zoning Ordinance, which lists permitted principal uses in the M-1, Light Industrial District, is amended to add a new subsection H to read as follows:

- H. Adult use marihuana secure transporters and licensed adult use marihuana safety compliance facilities that comply with the applicable regulations in Section 2-605. (*See **Adult Use Marihuana Establishments and Defined Terms in Section 1-007***).

Section 10 of Ordinance

Section 3-806.4 of the Waterford Township Zoning Ordinance that lists permitted uses after wellhead protection compliance in the M-1, Light Industrial District, is amended to add new subsections K to read as follows:

- K. Licensed adult use marihuana growers and licensed adult use marihuana processors that comply with the applicable regulations in Section 2-605. (*See **Adult Use Marihuana Establishments and Defined Terms in Section 1-007***).

Section 11 of Ordinance

Section 3-807.3 of the Waterford Township Zoning Ordinance that lists permitted principal uses in the M-2, General Industrial District, is amended to add a new subsection E to read as follows:

- E. Licensed adult use marihuana secure transporters and licensed adult use marihuana safety compliance facilities that comply with the applicable regulations in Section 2-605. (*See **Adult Use Marihuana Establishments and Defined Terms in Section 1-007***).

Section 12 of Ordinance

Section 3-807.4 of the Waterford Township Zoning Ordinance that lists permitted uses after wellhead protection compliance in the M-2, General Industrial District, is amended to add new subsections K to read as follows:

- K. Licensed adult use marihuana growers and licensed adult use marihuana processors that comply with the applicable regulations in Section 2-605. (*See **Adult Use Marihuana Establishments and Defined Terms in Section 1-007***).

Section 13 of Ordinance

The effective date of this Ordinance shall be July 25, 2023, or the 8th day after publication, whichever is later, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

CERTIFICATION

I certify that this Zoning Ordinance Text Amendment was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on July 17, 2023.

Date

Kimberly F. Markee, Township Clerk

Introduced:

Adopted:

Published: