

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2023-006**

ADULT USE MARIHUANA ESTABLISHMENT LICENSING ORDINANCE

An Ordinance to establish as a new Division 13 in Article III of Chapter 10 in the Waterford Charter Township Code, Adult Use Marihuana Establishment Licensing and Regulation Ordinance.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The Waterford Charter Township Code is amended by adding Sections 10-310 through 10-329 in a new Division 13, Adult Use Marihuana Establishments, in Article III, Business Licensing, of Chapter 10, Business Regulations, Licensing and Registration to read as follows:

Division 13. Adult Use Marihuana Establishment Licensing

Sec. 10-310. Title.

This Division shall be known and cited as the "Adult Use Marihuana Establishment Licensing Ordinance."

Sec. 10-311. Purpose.

- (a) The purpose of this Division is to exercise the Township's authority under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, as amended to authorize, locally license, and regulate adult use marihuana Establishments in the Township; provide for standards and procedures for the review, issuance, renewal, and revocation of licenses for such Establishments; and establish fees for such licenses.
- (b) The Township intends to issue licenses for and to regulate marihuana Establishments to the extent they are permitted under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.* The Township does not intend that permitting and regulation under this chapter be construed as a finding that such Establishments comply with any law. By requiring a Township permit and compliance with the requirements of this Chapter, as well as the Zoning Ordinance, the Township intends to protect the public health, safety and welfare by: promoting the safe, regulated sale and testing by state-licensed Establishments of adult-use marihuana, and to ensure safe access to adult use marihuana to adults age 21 and older; discouraging the sale of unsafe and unlicensed marihuana products; preserving and protecting the health, safety and welfare of the residents of the Township and the general public by minimizing unsafe and unregulated marihuana sale, establishing standards and procedures for the operation, and maintaining of an adult-use marihuana Establishment.
- (c) The operation of a licensed adult-use marihuana Establishment is a revocable privilege and not a right in the Township. Nothing in this chapter is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed, a Township-issued permit to engage in the use, distribution, cultivation, production,

possession, transportation, sale or testing of adult-use marihuana as a commercial enterprise in the Township.

- (d) The purpose of this Ordinance is to issue Township Licenses considering the extensive review process undertaken by the Township, pursuant to its Medical Marihuana Facility Licensing Ordinance, for its previous decisions to award medical marihuana licenses. This prior process involved two separate rounds of awarding and review of numerous applications, each containing well over 400 pages of information. The process involved a detailed application review by the Board of Trustees, reports from Township staff on each application, with presentations from Applicants and discussion taking place during several public meetings. This Ordinance acknowledges that it is in the best interest of the Township to rely upon the results from the prior lengthy and thorough competitive process during the medical marihuana application process as principal factors for determining the award of adult use licenses.
- (e) Adult use marihuana Establishments are a highly regulated industry in the Township. All licensees are assumed to be fully aware of the law. The Township shall not therefore be required to issue warnings before taking action to address violations of this Article.

Sec 10-312. Legislative Intent.

- (a) The intent in adopting this Ordinance is to authorize the best suited adult use marihuana Establishments to be licensed to operate in the Township while attempting to minimize the negative impacts on public health, safety, welfare, and community resources from the growing, processing, transportation/storage, testing, and purchase/sale of marihuana by licensed Establishments.
- (b) The intent of this Ordinance is to ratify, adopt and carry forward the extensive medical marihuana application review process, which resulted in the selection of facilities that are best suited to meet the needs of the Township. Requiring an adult use marihuana Establishment to also have a medical marihuana license is best suited to the needs of the Township and will ensure that medical marihuana will continue to be available for Township residents. This Ordinance is also intended to address the local impacts on the Township, its residents, and property owners from the commercialization of marihuana and to protect the public over marihuana Establishment interests, which at all times shall be subordinate to the interests of the Township and the public it serves.
- (c) As with any Township business license, a License issued under this Ordinance is a revocable privilege and there is no intention to confer a property right to operate, or obtain or retain a License to operate, an adult use marihuana Establishment in the Township.
- (d) This Ordinance and any Licenses issued under it are not intended to and do not provide any protection or exemption from federal law, under which marihuana is an illegal controlled substance, and the Township and its officials, employees, and agents shall not be construed as approving, encouraging, aiding or abetting the violation of that or any other marihuana related law based on actions and decisions under this Ordinance.

Sec. 10-313. Definitions.

- (a) In addition to the rules of construction and definitions contained in Sections 1-002 and 10-053, words, terms, and phrases used in this Ordinance shall have the meanings defined in the following state laws, which are adopted by reference, unless defined differently in this Ordinance and shall have the meaning indicated:
- (1) Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et. seq., as amended. ("**MRTMA**")
 - (2) The Administrative Rules promulgated under the Administrative Procedures Act, 1969 PA 306, MCL 24.201 to 24.328, by the Department of Licensing and Regulatory Affairs, Cannabis Regulatory Agency, or successor agency ("**Rules**").
 - (3) The Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq. ("**MMFLA**")
 - (4) The Medical Marihuana Facilities Licensing Ordinance definitions in Section 10-294.
- (b) As used in this Ordinance the following word, term, and phrases shall have the meanings indicated:

Adult use means the marihuana use provided in the Michigan Regulation and Taxation of Marihuana Act (MRTMA), Initiated Law 1 of 2018, MCL 333.297951 et. seq. as amended.

Applicants means (i) the person in whose name a license is applied for as the Named Applicant, (ii) managerial employees of the Named Applicant, (iii) all persons who hold any direct or indirect ownership interest of more than 10% in the Named Applicant, (iv) the persons identified in Section 102(c) of the MMFLA (MCL 333.27102(c)) based on the type of Named Applicant, and (v) any spouses of the persons identified in (i) – (iv).

Application means the application form and documents described in Section 10-320(b).

Establishment means a specific location at which a person is licensed to operate under this Ordinance as a grower, processor, retailer, safety compliance establishment, or secure transporter.

License means a license issued by the Township under this Ordinance for an Establishment, which also has an equivalent medical marihuana facility license for the same location as provided for in Section 10-317(a). (i.e., provisioning center license required to receive a retailer license, medical grower license required to receive an adult use grower license.)

Licensee means a person issued a Township License under this Ordinance for an Establishment that has previously been issued Township license for a medical marihuana facility.

Named Applicant means the person in whose name a license is applied for.

State Agency means the Cannabis Regulatory Agency or successor agency created by the state of Michigan to regulate marihuana businesses.

State License means a license issued by the State Agency allowing a person to operate as an adult use Establishment grower, processor, retailer, safety compliance Establishment, or secure transporter.

Sec. 10-314. Relationship to federal and state Laws.

- (a) *Relationship to Federal Law.* As of the effective date of this Ordinance, marihuana is classified as a Schedule 1 controlled substance under federal law, which makes it unlawful to manufacture, distribute, cultivate, produce, possess, sell, dispense, provide or transport marihuana. Nothing in this Ordinance shall be considered or construed to be or is intended to grant immunity from or a defense against any criminal prosecution under federal law.
- (b) *Relationship to State Law.* Nothing in this Ordinance or a License issued under it is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, provisioning, distribution or transport of marihuana in any form, that is not in strict compliance with the MRTMA and the Rules, strict compliance with which is a requirement and condition for issuing, continuing, and renewing any License under this Ordinance, with noncompliance being grounds for revocation or suspension of such Licenses.

Sec. 10-315. Liability to and indemnification of Township.

- (a) By accepting a License issued under this Ordinance, the Licensee waives and releases the Township and its officials, employees, agents, and insurers from any liability for injuries, damages or liabilities of any kind that may result from any arrest or prosecution of Establishment owners, operators, employees, clients or customers for a violation of state or federal laws.
- (b) By accepting a License issued under this Ordinance, the Licensee agrees to indemnify, defend and hold the Township and its officials, employees, agents, and insurers, harmless against all liability, claims or demands for bodily injury, sickness, disease, death, property loss or damage, or any other liability, including for: (i) injury to business or diminution of property value by a property owner whose property is located in proximity to an Establishment; (ii) claims arising out of the operation of, or use of a product cultivated, processed, distributed or sold by or from, an Establishment; (iii) alleged violation of the federal Controlled Substances Act, 21 U.S.C. §801 et seq.; and (iv) costs, expenses, and attorney fees incurred by the Township in defending its decision to approve the License (v) expenses associated with the emergency response, property repair, remediation, medical expenses, marihuana disposal, and expenses related to discontinued use, and prosecution.

Sec. 10-316. Establishment License required.

No person shall act as a marihuana adult use grower, processor, retailer, safety compliance Establishment, or secure transporter in the Township without first obtaining an equivalent medical marihuana license for the same location and maintaining and complying with the facility license

requirements under Chapter 10, Article II, Division 12 and applying for, obtaining, maintaining, and complying with the Establishment License requirements of the Township under this Ordinance.

Sec. 10-317. Authorized Licenses, annual fee, and limitations.

- (a) The types of marihuana Establishment Licenses allowed in the Township for which the Township may issue a License for the same location that has an equivalent Township medical marihuana facility license issued under Chapter 10, Art III, Division 12 are as follows:

<u>Type of Establishment</u>	<u>Equivalent Medical Facility License Required</u>
Grower	Grower
Processor	Processor
Retailer	Provisioning Center
Safety Compliance Establishment	Safety Compliance Facility
Secure Transporter	Secure Transporter

- (b) Nothing in this Ordinance obligates the Township to approve any of the Licenses authorized in subsection (a).
- (c) A separate License shall be required for each Establishment. More than one (1) type of Establishment License may be applied for, approved, and issued for the same location.
- (d) As authorized by MRTMA, MCL 333.27956, an annual nonrefundable fee of \$5,000.00 is established for each license that is issued.
- (e) As provided in Section 10-057, Licenses are not transferrable or assignable to a different location but may have changes in ownership or be transferrable or assignable to a different Licensee upon approval by the State Agency and the Township as provided in Section 10-326.
- (f) An Establishment licensed under this Ordinance shall not be eligible for any real or personal property tax abatement or other decrease or advantage under any Township ordinance, policy, or program, with the filing of a license application constituting a voluntary waiver by the Name Applicant of such abatement, decrease, or advantage.
- (g) The requirements in the Township Zoning Ordinance must be complied with.

Sec. 10-318. Establishment location and minimum requirements.

- (a) A License is not authorized and shall not be applied for or approved:
 - (1) For a location that does not meet the Facility Location and minimum requirements of Section 10-299 of Division 12.
 - (2) For a location that does not meet the requirements of Township Zoning Ordinance No. 135-A.
 - (3) For a location that has any past due property taxes, special assessments, water and sewer bills, or other financial obligation to the Township.

- (4) For a location that has any unresolved code violations issued by the Township or any unresolved violations issued by the State Agency.
- (b) The Named Applicant is responsible for determining if a License application is prohibited by subsection (a). If a License application is submitted in violation of subsection (a) it shall be denied and the application fee shall be forfeited to the Township.

Sec. 10-319. License application, approval and issuance procedure.

- (a) The License procedure involves the following 5 stages: (i) License Application and Planning Division Application filed with the Township Clerk and nonrefundable Application fee paid, (ii) Review by Township Assessor, Treasurer and DPW to verify if there are any outstanding obligations owed to the Township and review by the Code Official to verify if there are any code violations for the location, (iii) Review of Planning Division application form by Zoning Official and review and recommendation by the Planning Commission, under Section 4-004 of the Zoning Ordinance, to the Township Board, (iv) Decision on application by Township Board, and (v) License issuance by Township Clerk and License fee(s) paid by Licensee
- (b) Applications for an Adult Use Establishment License shall be filed with the Township Clerk's Office and be accompanied by a nonrefundable application fee for each License applied for in an amount set by Resolution of the Township Board. The filing of an Application constitutes consent to inspection of the proposed Establishment location by employees or agents of the Township. **The Named Applicant shall also be required to provide a completed Planning Division application form to the Clerk's Office.**
- (c) If review by Township personnel indicates that there are outstanding obligations owed to the Township or outstanding Ordinance code violations, the Application will be denied and the Application fee will be forfeited.
- (d) Any Township Board approval or approval with conditions of a License for an Adult Use Establishment shall expire after one (1) year or such later date as approved by the Township Board.
- (e) The Township Clerk shall not issue a License approved by the Township Board beyond the expiration of that approval and until all conditions of that approval have been satisfied and the annual License fee has been paid.

Sec. 10-320. License application requirements.

- (a) Applications for an Adult Use Establishment License shall be filed with the Township Clerk's office by personal delivery and be accompanied by a nonrefundable Application fee for each License applied for in an amount established by Resolution of the Board of Trustees. The filing of an application constitutes consent to inspection of the proposed location by employees or agents of the Township.
- (b) The Application shall consist of one (1) paper original, except where noted below, and an electronic version in an electronic form acceptable to the Clerk's Office of a completed Application form (form provided by the Clerk's Office) that identifies the Named Applicant and type of Adult Use Establishment License applied for, certifies under oath that none of

the conditions prohibiting the application from being filed as described in Section 10-318(a) exist, and contains the information required in the Application and described below. The following information shall be attached to the Application form on separate documents prepared by the Named Applicant and numbered with separate tabs for each item (1) to (6) to correspond to those numbers in this subsection. All Application information must be prepared and submitted with the understanding and expectation that compliance with those disclosures and commitments shall be conditions of the License applied for.

- (1) Copy of the prequalification under the Rules for the corresponding State License.
- (2) An explanation on the form provided with the Application noting any information that has changed since the Named Applicant's medical marijuana facility license application and information, if any, that will differ for the adult use Establishment from the medical marijuana facility. The Named Applicant must disclose marijuana regulatory violations and criminal convictions in any jurisdiction, noncompliance with tax or employee withholding obligations in any jurisdiction by Named Applicant or any Applicants.
- (3) Proof of insurance in the form of a certificate of insurance evidencing the existence of commercial general liability insurance on an occurrence basis with limits of liability of not less than \$2,000,000.00 per occurrence and aggregate for personal and bodily injury and property damage that names the Township and its officials and employees as additional insureds, and worker's compensation insurance as required by State law, issued by companies licensed and authorized to do business in the State of Michigan with a rating acceptable to the Township.
- (4) A \$10,000.00 bond in the form of cash, or a surety bond or irrevocable bank letter of credit, the language of which has been approved in advance by the Township, that shall be immediately available, forfeited, and payable to the Township if the Named Applicant, any other Applicant, or person on behalf of the Named Applicant files a complaint, petition, claim of appeal, or other proceeding with any court or governmental administrative agency, challenging, contesting, or otherwise seeking to invalidate a Township decision on the Named Applicant's License Application or money damages based on the decision. The bond proceeds shall only be used by the Township for the costs and attorney fees incurred in defending such an action, with any unused amounts after a final, unappealable decision to be returned to the person that paid the bond. The bond shall remain on file until expiration of the time for claiming an appeal under Section 10-327, after which it shall be returned or released if no appeal was filed and the Named Applicant and all other Applicants provide the Township with a signed written agreement that waives any and all rights to apply for leave to appeal from the decision or file any other court or governmental agency complaint, petition, or other proceeding against the Township or its official, employees, or agents based on the decision. Until that written agreement is provided, the bond will continue to be held until all applicable statutes of limitations for the filing of claims based on the decision have expired, after which the bond will be returned or released as applicable. If the Named Applicant already has a bond on file with the Township for a prior medical marijuana application and/or license, a bond transfer form, releasing all claims from prior Township marijuana licensing decisions may be completed to allow that bond to be used for an Adult Use Establishment License.

- (5) Optional: Any other information the Named Applicant wants the Township Board or Township to consider. Except for communications with the Township Clerk's office regarding administratively incomplete Applications and at a public meeting of the Township Board, and communication with the Zoning Official and Planning personnel regarding the Planning Division application, APPLICANTS ARE PROHIBITED FROM COMMUNICATING WITH TOWNSHIP BOARD MEMBERS OR TOWNSHIP PERSONNEL PERFORMING REVIEWS OF THE APPLICATION. HOWEVER, APPLICANTS MAY COMMUNICATE WITH PLANNING DIVISION PERSONNEL CONCERNING THE PLANNING DIVISION APPLICATION AND SITE PLAN REVIEW UNDER THE ZONING ORDINANCE. VIOLATION OF THIS PROHIBITION WILL RESULT IN DENIAL OF THE APPLICATION.
- (6) A signed Waiver of Claims Agreement provided with the Application.
- (c) Upon the personal delivery of the signed paper original and electronic version of an 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 Named Applicant shall also provide a completed Planning Division application to the Clerk for site plan review by the Planning Commission as required by the Zoning Ordinance. The Township Board will only consider and act on Applications after they have been reviewed by the Planning Commission in accordance with Section 4-004 of the Zoning Ordinance.
- (e) A Named Applicant may withdraw an Application within five (5) business days of filing it by signing and delivery of a written notice of withdrawal to the Township Clerk's office. Upon withdrawal within the five (5) business day period, ninety-five percent (95%) of the otherwise nonrefundable application fee shall be returned.
- (f) To the extent required by (MCL 333.27959(7)), the application documents submitted for an Establishment license are exempt from disclosure under the Freedom of Information Act. This exemption shall not apply to the completed Application form with the information specified in the first paragraph of subsection (b), and the Planning Division application.

Sec. 10-321. License application review and processing.

- (a) The Township Clerk's office shall review the Application and attachments with assistance from the Public Works Official, Treasurer, Assessor and Code Enforcement Officer as to compliance with the minimum requirements in Sec. 318(3) and(4), and within thirty (30) business days after accepting the 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 10-320(b) (1) through (6) 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 and if the Planning Division application was not submitted. 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 ten (10) business days of

receipt. If an Application is 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 ten (10) business days of that notice, it shall be treated and considered as abandoned and the application fee shall be forfeited to the Township.

- (b) Upon determining an Application to be administratively complete with no outstanding obligations owed to the Township or outstanding Code violations, the Clerk's office shall notify the Zoning Official that the Planning Division application may be reviewed and referred to the Planning Commission as provided in the Zoning Ordinance Section 4-404. The Zoning Official shall notify the Named Applicant of any additional information needed before the Planning Division application can be placed on a Planning Commission agenda. Once the Planning Commission has completed its review of a Planning Division application, it shall advise the Clerk of its recommendations.

Sec. 10-322. Township Board procedure and decision on applications.

- (a) Once the Planning Commission has completed its review of each Planning Division application under Section 4-004 of the Zoning Ordinance, it shall advise the Clerk of its recommendations. The Clerk shall place the Applications and Planning Commission recommendations on the agenda for a Board of Trustees meeting for their consideration. The Board may consider applications as the Planning Commission completes its recommendations.
- (b) At its first meeting to consider an Application for an Establishment License the Township Board may request additional information from the Name Applicant and Applicants, postpone consideration to a future meeting, refer the Application to the Township Attorney for review or make a decision on the Application.
- (c) If any of the following circumstances exist, an Application shall be denied without consideration of the License Application review criteria:
 - (1) The Application may not be approved or issued because of noncompliance with one (1) or more of the reasons listed in Section 10-318(a).
 - (2) Prohibited communication or attempted prohibited communication by an Applicant with Township Board members or Township personnel who are to perform reviews of the application.
 - (3) The Application is not substantively complete with respect to one (1) or more of the Application requirements in Section 10-320(b).
 - (4) The Application contains knowingly false information as documented in a report from Township personnel.
 - (6) Any of the circumstances provided in Section 10-303(d)(6)-(9).

- (7) Failure of the Named Applicant to have an authorized representative at a meeting it was notified of unless a written explanation of that absence acceptable to the Township Board is provided prior to the meeting.
- (d) If an Application is not denied under section (c) above, the Township Board shall decide whether to approve, approve with conditions, or deny the Application based on compliance with the License standards, terms, and conditions in Section 10-325, the application review criteria in Section 10-323, and the other standards and requirements in this Ordinance. Conditions on an approval may include changes to any of the plans, programs, commitments, or other aspects of the proposed Establishment and its operation submitted as part of the Application.
- (e) The Township Board decision shall be made by an approved motion during an open meeting of the Board but shall not be final until it has been placed in writing and adopted by the Board as its final decision at the meeting when the decision was made or a subsequent meeting, which shall be considered the date of the decision for all purposes. The Board's final decision shall be sent by the Clerk to the Named Applicant.
- (f) Section 10-077, that otherwise allows the Township Board to grant a variance from minimum licensing requirements shall not be applicable to licensing requirements under this Division.
- (g) If the Township Board conditionally approves an Application, any conditions that are not based on the Application or a part of every License under Section 10-325, must be accepted by the Named Applicant filing a written acceptance signed by an authorized representative with the Township Clerk within 10 business days of the Clerk's sending the Board's final decision to the Named Applicant.
- (h) Subject to a timely filed acceptance of conditions under subsection (h), a final decision to approve or conditionally approve an application reserves that type of Establishment License for the Named Applicant and authorizes the Township Clerk to issue it for a period of one (1) year after the Township Board's final decision, or such later date as allowed by the Township Board, if all of the following conditions are satisfied and documented by filings with the Township Clerk within that time:
- (1) For a conditional approval, the Named Applicant's written acceptance of the conditions is filed with the Clerk in the time and manner required by subsection (h).
 - (2) The corresponding State License for that type of Establishment is issued.
 - (3) Any Zoning Ordinance change of use, site plan, or other approvals necessary for issuance of construction permits being obtained and complied with.
 - (4) Construction permits being obtained and complied with.
 - (5) A final certificate of occupancy being issued.
 - (6) Payment of the annual license fee of \$5,000.00, which may be prorated.
 - (7) Satisfaction of any Township Board approval conditions.

- (8) Satisfaction of all License issuance requirements in Section 10-324.
- (9) A current certificate of insurance conforming to Section 10-319(b)(3) and confirming insurance coverage through the end of the term of the License to be issued.

Sec. 10-323. Township Board License Application review criteria and record.

- (a) In reviewing and acting on Applications for Establishment Licenses under this Ordinance, the Township Board shall base its decisions on: (1) the Planning Commission recommendation under the Site Plan Review Procedures and Requirements in Section 4-004 of the Zoning Ordinance (2) information provided with the application explaining if anything has changed since the medical marihuana facility license application and information that will differ for the adult use Establishment and the mandatory disclosures required in Section 10-320(b)(2) and (3) whether the Named Applicant and Applicants are best suited to operate within the Township in compliance with MRTMA, the legislative intent of Section 10-312 and the competent, material and substantial evidence on the record.
- (b) The Township Board's record for license Application decisions shall consist of the Application, the Minutes of Township Board meetings at which an Application is considered, the written recommendation of the Planning Commission, any additional information from the Named Applicant and the Board's final decision under Section 10-322.

Sec. 10-324. Issuance and renewal of Licenses.

- (a) The Township Clerk shall issue a License approved by the Township Board if the documents specified in Section 10-322(i) are received within the time required.
- (b) Licenses are issued on a calendar year basis, expire on December 31st of each year, and shall be for the remainder of the calendar year in which issued, with the required annual License fee prorated. Upon the Licensee's written request, the Township Clerk may issue the first License for an Establishment for the remainder of the calendar year in which issued and the following calendar year if the annual License fee for that following calendar year is also paid.
- (c) There is no right to renew an Establishment License. On or before October 1 of each License year, the Township Board may approve notifying a Licensee of the Township's intention to not renew the License for specified reasons. Such reasons and notice shall be provided in writing to the Licensee at least seven (7) days before a hearing by the Township Board on a date and time specified in the notice at which the Licensee shall have the opportunity to be heard before any final Township Board decision on whether the License may be renewed.
- (d) Applications to renew a License for the next calendar year shall consist of a paper original and electronic version of a written request filed with the Township Clerk by November 1 and shall be accompanied by a nonrefundable renewal application fee in an amount established by resolution of the Township Board, an updated certificate of insurance a description of any changes in the information in the applications that was not previously

provided to the Clerk. The Township Clerk shall distribute the renewal application for review by and compliance status reports from the same Township personnel and for the same purposes described in Section 10-302(b), which shall be provided within 30 days.

- (e) Based on the Township personnel reports and standards in Sections 10-076, 10-078, and 10-079, the Township Clerk shall either approve or deny renewal of the License and notify the Licensee in writing of the decision, and if it is to deny, of the right to appeal to the Township Board under Section 10-079(b).
- (f) Licenses shall be in a form determined by the Township Clerk that includes by reference all License standards, terms and conditions under Section 10-325.
- (g) A copy of the License shall be posted at all times in the Establishment at a location that is readily observable upon entering the Establishment.

Sec. 10-325. License standards, terms, and conditions.

Unless modified by the Township Board in its decision to approve a License, the standards, terms, and conditions in this Section are incorporated by reference in and shall be requirements of every License to be complied with at all times.

- (a) The Establishment shall be constructed, used, operated, and maintained in compliance with the medical marihuana facility license application and the Establishment Application as approved by the Township Board, except as the site plan may have otherwise been modified as approved by the Planning Commission, and the requirements for licensure under this Ordinance and the Zoning Ordinance, specifically including:
 - (1) All Township Board License approval conditions.
 - (2) All aspects and elements of the site and building plans submitted with the Planning Division application unless changes are required to meet the building and/or zoning codes, or, as otherwise approved by the Planning Commission consistent with the Zoning Ordinance.
 - (3) All aspects and elements of the medical marihuana license standards, terms and conditions in Sec. 10-306.
- (b) The Establishment shall be constructed, used, operated, and maintained in compliance with all Township Codes and Ordinances and the following state laws that are adopted by reference as part of this Ordinance:
 - (1) The MTRMA (Michigan Regulation and Taxation of Marihuana Act.)
 - (2) The Tracking Act (Michigan Marihuana Tracking Act.)
 - (3) The State License for the Establishment.
 - (4) The Rules (Cannabis Regulatory Agency Administrative Rules)

- (5) All License standards in Sec. 10-306 of the Medical Marihuana Facilities Licensing Ordinance except as otherwise noted herein.
- (c) There shall be posted in a conspicuous location in each Establishment a legible sign stating that:
 - "1. The possession, use, sale, distribution, growing, cultivation, and transporting of marihuana is a violation of federal law.
 - 2. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, medical marihuana.
 - 3. No one under the age of 21 is permitted on this premises, except as may be permitted for employees in accordance with state law."
- (e) Licensee shall be responsible for taking all lawful actions and measures necessary to prevent or immediately curtail violations of any law at or related to an Establishment, including but not limited to the Township Ordinances that prohibit the gathering of disorderly persons and loitering, with any such violations to be reported immediately to the Township police department by the licensee.
- (f) During all business hours and other times when an Establishment is occupied by the licensee or an employee or agent of the licensee, it shall be subject to examination and inspection by the Township for the purpose of investigating and determining compliance with the License and this Ordinance.
- (g) Application for a License, operation of an Establishment, and leasing property for use as an Establishment, constitutes consent by the Named Applicant, Applicants, Licensee, all owners, managers, and employees of the Establishment, and the owner of the property to the Township conducting routine examinations and inspections of the Establishment to ensure compliance with this Ordinance and any License applied for or issued.
- (h) Compliance with any future State law that imposes additional or stricter requirements or regulations on an Establishment shall be an additional requirement of any License issued, renewed, or applied for under this Ordinance.

Sec 10-326 License Transfer Request and Requirement to Report Material Changes.

- (a) A License approval is only valid for the owners, officers, members or managers listed in the application or License and only valid for the Named Applicant or named Licensee, unless a change is approved as provided herein.
- (b) A Licensee must report material changes to the State Agency before making material changes that require prior authorization from the State Agency. Material changes must be reported to the Township Clerk within 10 calendar days of the change. Material changes include but are not limited to the following:
 - (1) Change in any owners, officers, members, managers or members listed in the application or license.

- (2) Changes in entity name.
 - (3) Any transfer, sale, or other conveyance of an interest in the entity.
 - (4) For a safety compliance Establishment any change in its accreditation status by ISO or other accreditation body approved by the State Board.
 - (5) A Licensee has a duty to notify the Clerk in writing of any pending criminal charge, criminal conviction, felony, misdemeanor and violation of any law or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of marihuana, the MMFLA, MRTMA and of any State Agency fine or penalty imposed.
- (c) Transfer of license or Changes to ownership: A Named Applicant may transfer a License issued under this article, to a different entity or make changes to ownership, upon receiving written approval from the State Agency and the Township. The same changes made must be requested for the Named Applicants medical marihuana facility License. In order to make a request for Township approval of a change in Applicants or a change in the corporate name, the Named Applicant or licensee must make a written request to the Township Clerk, indicating the current Named Applicant or licensee, the proposed changes to Applicants or licensee and provide the approval from the State Agency for the change. The Clerk shall also be provided with the information in Section 10-301 (2) for changes to the Named Applicant or licensee and information in Section 10-301 (3) for changes to the Applicants/licensees. Proposed new Applicants and new license holders may not owe any outstanding obligations to the Waterford Township and shall attest to that in their request to the Clerk.
- (1) A change in business name without a change in ownership requires a fee of \$200 paid to the Township for the medical and adult use License. If a Named Applicant or licensee is changing its business name and not making any changes to the Applicants, the Clerk may issue a license in the name of the new entity when all other requirements in this article are met. If the Named Applicant or licensee is removing one or more Applicants or owners without adding new ones, the Clerk shall accept and file the State Agency approval of the change.
 - (2) If the change involves a request to add new Applicants or licensees, or a full transfer of ownership, a transfer application fee of \$2,500 shall be paid to the Township to cover both the medical marihuana facility license and the adult use establishment License changes. The Clerk shall provide the transfer application information to Assessing, Treasurer, DPW and the Police Chief. The reporting individuals shall provide their written report to the Clerk within twenty (20) days of receiving the request for a report. The Clerk shall place the transfer request on a Township Board of Trustees meeting agenda. The Township Board shall grant the request so long as there has not been any delinquent property taxes or special assessments owed to the Township by any of the new owners, there are no code of ordinance violations, the State Agency authorized the transfer, and the proposed license or application changes meet all requirements outlined in this article. The Township reserves the right to decline any transfer of a license which occurs within the first year of its original issuance.

- (d) Failure to report a Material Change to the Clerk within 10 days of the change is grounds for suspension or revocation of a License or conditional approval.
- (e) No transfer of location shall be permitted.

Sec. 10-327 Limited Right of Appeal.

A Named Applicant shall have the right to appeal from a final Township decision on the Named Applicant's License application by filing a Claim of Appeal with the Oakland County Circuit Court within twenty-one (21) days after the date of the final Township decision as provided in MCR 7.123, with the appeal limited to determination of whether the decision complied with the procedures and discretion of the Township Board under this Ordinance, was authorized by law.

Sec. 10-328. License revocation and suspension.

Any License issued under this Division may be suspended or revoked by the Township Board under the procedure in Division 3 of this Article.

Sec. 10-329. Violations and sanctions.

Violations of this Division or the terms and conditions of a License are municipal civil infractions punishable as provided in Section 1-010(b).

Section 2 of Ordinance. Severability

Should the Courts declare any Section, subdivision, sentence, clause or phrase of this ordinance to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 3 of Ordinance. Repealer

This Ordinance repeals Ordinance No 2019-005, Marihuana Establishment Prohibition Ordinance, adopted on May 28, 2019, and effect 2019 and codified in Chapter 10, Article I, Division I, Section 10-001, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4 of Ordinance. Effective Date

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 July 17, 2023.

CHARTER TOWNSHIP OF WATERFORD

Date

By: _____
Kimberly F. Markee, Township Clerk

Introduced:

Adopted:

Published: