

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2023-005**

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 provide for site and building plans review by the Planning Commission prior to a decision on the license application by the Township Board.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The Waterford Charter Township Code is amended by modifying subsection 10-294 Definitions to reflect the new name for the state agency responsible for reviewing marihuana licensing matters to read as follows:

Rules means the administrative rules that have been or in the future are promulgated by the Michigan ~~Marijuana-Cannabis~~ Regulatory Agency under Section 206 of the Act, MCL 333.27206, to implement the Act, which ~~as of June 22, 2020,~~ are included in the rules codified in the Michigan Administrative Code, ~~as R 420.1 through R 420.809.~~

State ~~Board~~ Agency means the ~~medical marihuana licensing board~~ Cannabis Regulatory Agency created under ~~Part 3 of the Act~~ the Executive Reorganization Order 2019-02 to assume the responsibility of the medical marihuana licensing board.

State license means a license issued by the State ~~Board-Agency~~ under the Act allowing a person to operate as a grower, processor, provisioning center, safety compliance facility, or secure transporter.

Section 2 of Ordinance

The Waterford Charter Township Code is amended by modifying subsection 10-298 to provide for possible future consideration of additional licenses 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
Provisioning Center	6
Safety Compliance Facility	2
Secure Transporter	2

However, the Board of Trustees may at any time review the number of licenses issued to determine if they wish to consider an increase in the maximum number of facility licenses provided above and/or accept new applications.

Sections (b)- (d) Unchanged

(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 ~~Board~~ Agency and the Township as provided in Section 10-307.

(f) Unchanged

Section 3 of Ordinance

The Waterford Charter Township Code is amended by modifying subsection 10-300 to provide for site and building plans by the Planning Commission prior to a decision on the application by the Township Board to read as follows:

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

(a) The license procedure involves ~~four (4)~~ five (5) stages which are: (i) Application to Township Clerk, (ii) Application review and processing by Township personnel, (iii) Review of the Planning Division application by the Zoning Official and by the Planning Commission, under Section 4-004 of the Zoning Ordinance, and report to Township Board ~~(iii)~~ (iv) Decision on license application by Township Board, and (iv) License issuance by Township Clerk. Supplemental Applications shall involve the ~~same four (4)~~ same five (5): (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 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)- (e) Unchanged

Section 4 of Ordinance

Waterford Charter Township Code is amended by modifying subsection 10-301 to add additional information from each application concerning unpaid tax and withholding obligations, provide for site and building plans by the Planning Commission prior to a decision on the application by the Township Board, remove the requirement to provide a waiver from the Freedom of Information Act, to read as follows:

Sec. 10-301. License application requirements.

(a) Unchanged

(b) The Application shall consist of one (1) paper original and an electronic version in a media 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 facility license applied for, certifies under oath that none of the conditions prohibiting the application from being filed as described in Section 10-299(a) exist, and contains the information required in subsections (a) – (c), (g), (j), and (k) of Section 10-071. The following information shall be attached to the application form on separate documents prepared by the Named Applicant and numbered (1) to (254) to correspond to those numbers in this subsection. All application information, specifically including all disclosures, plans, programs, and commitments, must be prepared and submitted with the understanding and expectation that compliance with those disclosures, plans, programs, and commitments shall be conditions of the facility license applied for. The Application should be as concise and not exceed _____ of pages as possible.

(b)(1)-(3)(k) Unchanged

(b)(3)(l) Outstanding tax obligations in any jurisdiction

(b)(3)(m) Unpaid obligations for employee withholdings including income taxes, social security, Medicare and unemployment

~~(b) (10) Scaled site and building plans of the proposed facility that comply with all license standards, terms, and conditions in Section 10-306, and containing plan sheets showing property lines, building setbacks, elevations and floor plans, the purpose and use of all rooms, parking, walks, driveways, loading and unloading zones, fences, walls, landscaping, and all areas in which marijuana will be received, stored, grown, cultivated, manufactured, processed, packaged, loaded, unloaded, handled, tested, displayed or dispensed. The plans shall also describe and depict the size, location, text, symbols, and graphics, and actual appearance of all proposed signs at or for the facility.~~

(b) (11)- (23) Shall be renumbered to (b) (10)-(22)

~~(b) (24) A waiver of the exemption from Freedom of Information Act disclosure of the application documents under the Act (MCL 333.27205(4)), if a Township decision on a license applied for by the Named Applicant is challenged.~~

(b)(253) Any other information the Named Applicant wants the Township Board or Township personnel involved in reviewing and providing reports on the application to consider. Except for communications with the Township Clerk's office regarding administratively incomplete applications and at a public meeting of the Township Board, APPLICANTS ARE PROHIBITED FROM COMMUNICATING WITH TOWNSHIP BOARD MEMBERS OR TOWNSHIP PERSONNEL PERFORMING REVIEWS OF THE APPLICATION. HOWEVER, APPLICANTS MAY COMMUNICATE WITH THE 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.

(b) (264) A signed Waiver of claims agreement provided with the application.

(c) Unchanged

(d) An applicant shall also be required to provide a Planning Division application for site plan review to the Clerk's Office that contains scaled site and building plans of the proposed facility that comply with all license standards, terms, and conditions in Section 10-306, and containing plan sheets showing property lines, building setbacks, elevations and floor plans, the purpose and use of all rooms, parking, walks, driveways, loading and unloading zones, fences, walls, landscaping, and all areas in which marihuana will be received, stored, grown, cultivated, manufactured, processed, packaged, loaded, unloaded, handled, tested, displayed or dispensed. The plans shall also describe and depict the size, location, text, symbols, and graphics, and actual appearance of all proposed signs at or for the facility.

~~(de)~~ 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.~~ and that have been reviewed by the Planning Commission in accordance with Section 4-004. of the Zoning Ordinance. ~~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.

(f) – (g) Unchanged

Section 5 of Ordinance

Waterford Charter Township Code is amended by modifying subsection 10-302 to provide for site and building plans by the Planning Commission prior to a decision on the application by the Township Board to read as follows:

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

(a) – (b) Unchanged

(c) The reviews under subsection (b) are to be strictly limited to the application as received from the Township Clerk, and in addition to the listed items to be included, shall note any aspects of the application that are not in compliance with a license standard, term, or condition in Section 10-306, or that are not substantively complete with respect to the application requirements in Section 10-301(b). Township personnel shall not communicate with any Applicant regarding an application and Applicants are prohibited from communicating with any Township personnel who is to provide a report. However, the Zoning Official and Planning Department personnel may communicate with an Applicant regarding a Planning Division application and consideration by the Planning Commission. A violation of this prohibition shall be noted in the report that is filed and be grounds for denial of the application.

(d) Upon determining an Application to be administratively complete -and that the applicant has 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 each Planning Division application, it shall advise the Clerk of its recommendations.

(e) Upon receiving the reports required by subsection (b) and the Planning Commission recommendations required by subsection (d), the Clerk shall place the 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) 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.

(ef) Upon identifying the Township Board meeting at which an application will be considered, the Clerk shall provide each Board member with a copy of the application, which is exempt from disclosure under the Freedom of Information Act, the Planning Division application and Planning Commission recommendation, which are not exempt from disclosure, and each of the reports from Township personnel.

Section 6 of Ordinance

Waterford Charter Township Code is amended by modifying subsection 10-303 to update the name of the state agency responsible for regulating marihuana facilities to read as follows:

(a)-(d) (7) Unchanged

(d) (8) Any Applicant is a member of the State ~~Board-Agency~~ or Township Board.

(e)- (i) Unchanged

Section 7 of Ordinance

Waterford Charter Township Code is amended by modifying subsection 10-304 to revise the application review criteria to read as follows:

Sec. 10-304. Township Board license application review criteria and record.

- (a) In reviewing and acting on applications for facility licenses under this Ordinance, specifically including when there are more applications entitled to consideration for a type of facility license than are authorized under Section 10-298, the Township Board shall base its decisions on one or more of the following criteria consistent with the legislative intent expressed in Section 10-293 and the competent, material, and substantial evidence in the record.
 - (1) The proposed use is consistent with the land use for the surrounding neighborhood and will not have a detrimental effect on traffic patterns, health, welfare or safety of residents or abutting properties.
 - (2) Neighborhood outreach and improvement:
 - (a) Whether the Named Applicant has or plans to make significant physical improvements to the area around the property that will include improvements to the area such as plans to eliminate or minimize traffic, noise and improve the surrounding neighborhood and area.
 - (b) Plans to make improvements to roads, parks or any other public or private property that will benefit the Township.
 - (3) Capital improvements of the proposed facility. This included but is not limited to:
 - (a) The total overall capital investment in funds for renovations to the property, including the increase in taxable value, the overall investment in equipment, fixtures and related items.
 - (b) The number of years that the property or site to be renovated by the Named Applicant has been vacant.
 - (c) The significance of the upgrades to the property are such as but not limited to: renovations to an existing building, the extent of new construction of a building, the renovation to a site that may involve a Brownfield site or other deteriorated property.
 - (4) Business and Financial strength:
 - (a) Whether the Named Applicant and Applicants have demonstrated they possess sufficient financial resources to support the proposed facility. ,
 - (b) The skills, experience, and qualifications to construct, operate, and maintain the proposed business plan and facility.
 - (c) Whether the Named Applicant and Applicants have other established businesses in the Township, state of Michigan or elsewhere and the relevant experience and length of time those other business operations have existed.
 - (5) Employment: The number of, full and part-time employees anticipated by the Named Applicant, the wages, benefits and training that will be provided and the extent of any commitment to employ Township residents.

- (6) Community Outreach: Whether the Named Applicant has planned Charitable or other commitments to benefit groups and programs in the Township. This includes but is not limited to educational services, charitable or philanthropic activities, community improvement or other factors that will improve the health, safety, and welfare of the Township.
- (7) Business Compliance: The Named Applicant's and Applicants' past compliance with governmental permits, licenses, franchises, contracts, other approvals, and criminal or civil laws. The Named Applicant's and Applicants' lack of prior bankruptcies, civil litigation unfair labor practices, noncompliance with tax and withholding obligations.
- (b) The Township Board's record for license application decisions shall consist of the application, the Township personnel reports under Section 10-301(b), and the Minutes of Township Board meetings at which an application is considered, any committee reports or recommendations, any additional information from the Named Applicant, and the Board's final decision under Section 10-303.

Section 8 of Ordinance

Waterford Charter Township Code is amended by modifying subsection 10-306 to provide for site and building plans by the Planning Commission prior to a decision on the application by the Township Board to read as follows:

Sec. 10-306. License standards, terms, and conditions.

Unless modified by the Township Board in its decision to approve a license, or modified by the Planning Commission, as provided below for site and building plans, the standards terms, and conditions in this Section are incorporated by reference in and shall be requirements of every facility license to be complied with at all times:

- (a) The facility shall be constructed, used, operated, and maintained in compliance with the application, as approved by the Township Board, or as approved by the Planning Commission for site and building plans, and requirements for licensure under this 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 the site or building plans to meet the building and/or zoning codes, or, as otherwise approved by the Planning Commission consistent with the Zoning Ordinance.
 - (3) – (10) Unchanged
- (d) There shall be posted in a conspicuous location in each facility a legible sign stating that:

- “1. The possession, use, sale, distribution, growing, cultivation, and transporting of medical 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 18 is permitted on this premises, except as may be permitted under state law for employees.”

(e) –(k) unchanged

(l) Provisioning centers are subject to the following requirements and restrictions:

- (1) The hours they are open to the public are limited to 9:00 a.m. to ~~9~~10:00 p.m., Monday through ~~Friday, 9:00 a.m. to 7:00 p.m.~~ Saturday, and 10:00 a.m. to ~~4~~6:00 p.m. on Sunday.
- (2) Medical marihuana or medical marihuana paraphernalia shall not be dispensed or distributed outside the building.
- (3) Shall not sell, give, dispense or otherwise distribute to any qualifying patient or primary caregiver who is not a licensee, more usable form of medical marihuana (including the useable marihuana equivalent of medical marihuana-infused products) within any seven-day period of time than the patient or caregiver is allowed to possess by the MMMA.
- (4) Must have one (1) licensed and lawfully armed private security guards or private security police present during business hours.

(m)-(t) Unchanged.

Section 9 of Ordinance

Waterford Charter Township Code is amended by modifying subsection 10-307 to update the name of the state agency responsible for regulating marihuana facilities to read as follows:

Sec. 10-307. License Transfer Request and Requirement to Report Material Changes.

- (a) Unchanged
- (b) A Named Applicant that has received conditional approval for a license and a licensee must report material changes to the State ~~Board Agency~~ before making material changes that require prior authorization from the State ~~Board 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) Change in entity name.
 - (3) Any transfer, sale, or other conveyance of an interest in the entity.

- (4) For a safety compliance facility any change in its accreditation status by ISO or other accreditation body approved by the State ~~Board~~ Agency.
 - (5) An applicant and a licensee have 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 and of any State ~~Board~~ Agency fine or penalty imposed.
- (c) Transfer of license or Changes to ownership: A Named Applicant may transfer a conditional approval and a licensee may transfer a license issued under this article, to a different entity or make changes to ownership, upon receiving written approval from the State ~~Board~~ Agency and the Township. 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 ~~Board~~ 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. 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 ~~Board~~ 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. 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, the State ~~Board~~ 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 a location shall be permitted.

Section 10 of Ordinance. Severability

Should any Section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts 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 11 of Ordinance. Repealer

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 12 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 _____, 2023.

CHARTER TOWNSHIP OF WATERFORD

By: _____
Kimberly F. Markee, Township Clerk

Date