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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

July 3, 2023

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

RE: Proposed application for Adult Use Marihuana Establishment License (“MMFL Ordinance”)

Dear Board of Trustee Member:

I would appreciate your feedback on the attached draft application. If an adult use marihuana establishment ordinance is introduced during your July 10 meeting, I will need to provide the Clerk’s Office with a proposed resolution adopting the application by noon on July 11, for inclusion on the agenda for the July 17, 2023, meeting agenda.

If you would like any changes to the application, I would appreciate having them by 10:00 a.m. on July 11. Please call me with any questions or concerns.

Sincerely yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Joellen Shortley

Joellen Shortley



**CHARTER TOWNSHIP OF WATERFORD
CLERK'S OFFICE**

5200 Civic Center Dr. • Waterford, MI 48329
Phone 248-674-6266 • Fax 248-674-5455
Web Page www.waterfordmi.gov

ADULT USE MARIHUANA ESTABLISHMENT LICENSE APPLICATION

Instructions

This Application form has been approved for use by the Township Board of Trustees and must be used to apply for an Establishment License under the Township's Adult Use Marihuana Establishment Licensing Ordinance, codified in Division 13 in Article III of Chapter 10 of the Waterford Charter Township Code, beginning with Section 10-310 ("Ordinance"). **The Ordinance requires an applicant to have a Township medical marihuana license to apply.**

One (1) paper hard copy original of this Application form and its required attachments with an electronic version of those documents in a media form acceptable to the Township Clerk's office **must be personally filed** with the Clerk's office with a **nonrefundable application fee of \$5,000 for each license applied for.** **Applications will not be accepted for filing until July 18, 2023.** All information on this Application must be **completed** and all information and documents in the attached Information/Documents Checklist must be **marked** and attached in that order.

Separate Application may be submitted for multiple types of licenses (Grower, Processor, Retailer, Safety Compliance Establishment, and Secure Transporter) at the same location by the Named Applicant. **No more than one (1) of each type of Establishment License may be applied for at a single location.**

Any questions regarding this Application or the Ordinance must be submitted in writing to the Clerk's office and will be responded to in writing on the Township's website for Adult Use Establishment Marihuana Licensing.

CLERK'S USE ONLY

Date Received: _____ Date Non-Refundable Application Fee(s) of \$ _____ paid: _____
(\$5,000 for each License applied for)
Time Received: _____

1. Type of Establishment License(s) Applied For

- Grower Processor Retailer Safety Compliance Establishment Secure Transporter

2. Named Applicant Information.

NAMED APPLICANT (exact legal name of entity/person to hold license)		ADDRESS	
CITY		STATE	ZIP
EMAIL ADDRESS		PHONE	
NAMED APPLICANT'S CONTACT PERSON		ADDRESS	
CITY		STATE	ZIP
EMAIL ADDRESS		PHONE	
ASSUMED NAME(S), IF ANY, OF NAMED APPLICANT			

ADULT USE MARIHUANA ESTABLISHMENT APPLICATION INFORMATION/DOCUMENT

This checklist of information/documents required for a complete Application as required in Ordinance 10-319(b) that appear on the following pages, and that are to be attached (or identified as attachments) to the Application marked with those numbers and in that order. THOSE ORDINANCE REQUIREMENTS MUST BE FOLLOWED.

- (1) Application and prequalification for corresponding State license under MRTMA and State Rules.
- (2) Named Applicant and Applicant Information specified in Ordinance Section 10-319(b), as indicated on the attached Adult Use Marihuana Establishment Application Information Form.
- (3) Proof of Insurance.
- (4) A 10,000 bond payable to Township to defend Named Applicant challenges to Township decisions.
- (5) Optional: Any other information the Named Applicant wants the Township Board to consider.
- (6) A signed Waiver of Claims Agreement provided with the Application.

DRAFT

ADULT USE MARIHUANA ESTABLISHMENT APPLICATION INFORMATION FORM FOR UPDATING MEDICAL MARIHUANA APPLICATION INFORMATION AND EXPLAINING WHERE AN ADULT USE ESTABLISHMENT OPERATION MAY OPERATE DIFFERENTLY FROM A MARIHUANA FACILITY

The following information/documents are required with an Adult Use Establishment application. It is a summary of information and documents that were provided with a Medical Marihuana Facility Licensing Application as required In MMFL Ordinance Section 10-301(b). Indicate below each number if there has been a change in information since the time of the medical marihuana application AND indicate, where requested, if an adult use marihuana establishment will have different information. Provide an explanation and all necessary documentation for review that explain where a change or new information is noted.

(1) N/A

(2) For the Named Applicant, all of the following:

a. Documentation of when, where, and for what purposes the entity was formed and the articles of incorporation, bylaws, and any agreements under which the entity was formed and operates.

Yes / No

b. Documentation of good standing and authority to do business in Michigan.

Yes / No

c. All assumed or other names under which the Named Applicant does business.

Yes / No

(3) For the Named Applicant and each of the Applicants:

a. Name, position with, and interest held in Named Applicant, and residence addresses, property owned, and businesses operated in Township for the last 10 years, including tax parcel identification numbers for all properties.

Yes / No

b. The following information and criminal records:

i) The full names, addresses, telephone numbers, dates of birth, copies of motor vehicle operator's licenses, and types of legal interest in the regulated business of all owners, partners, and stockholder owning more than a 10% of the corporations, and the same information for all managers.

Yes / No

ii) The criminal records, if any, of all owners, partners, and stockholders owning more than 10% of the corporations, and the same information for all managers.

Yes / No

c. Types, locations, and histories of past and current businesses conducted, including compliance with and violations of ordinances, codes and other laws.

Yes / No

d. Types, locations, and histories of other medical or recreational marihuana licensed or permitted businesses in Michigan and other states, including compliance with and violations of licenses and permits.

Yes / No

e. Additional permits, licenses, franchises, contracts, or other approvals from state or local governments since the MMFL Application.

Yes / No

f. N/A

g. N/A

h. N/A

i. Prior bankruptcies and details. Indicate if any new bankruptcies since the time of filing the MMMFL application.

Yes / No

j. Prior civil litigation and details. Indicate if any new litigation since the time of filing the MMMFL application.

Yes / No

k. Prior unfair labor practice complaints and details. Indicate if any new unfair labor practice complaints since the time of filing the MMMFL application.

Yes / No

(4) N/A

(5) Documentation of Named Applicant ownership or interest in property. Indicate if there has been any change in ownership or interest in property.

Yes / No

- (6) If Named Applicant does not own property, written consent or approval of Application by owners of a property. Indicate if any change to consent by owners of a property.

Yes / No

- (7) Changes to Title insurance policy, commitment, or search for property confirming ownership and identifying building use, or other restrictions, and mortgages, liens, easements, and other encumbrances on property, with copies of all identified documents.

Yes / No

- (8) N/A

- (9) N/A

- (10) N/A

- (11) If Named Applicant does not own property, a current signed document by all owners of the property approving the use of the property and site and building plans.

- (12) Cost estimate if additional construction will be required for an adult use establishment. Indicate if not applicable.

- (13) Documented sources of funding for the estimated construction cost of new construction. Indicate if not applicable.

- (14) Indicate any new site and building improvements for an adult use establishment and the estimated time to start and complete construction.

- (15) Comprehensive facility operation plan that includes at least the following:

- a. Describe any new or additional security arrangements for an adult use establishment:

Yes/No

- b. For grower and processor facilities, a plan that specifies the methods to be used to ensure compliance with restrictions and limitations on discharges into the wastewater system of the Township and the quantity of water to be used and proposed water supply and service pipes, meters, and plumbing for the facility that has been reviewed and approved by the Public Works Official.

Yes/No or Not Applicable

- c. Explain if there are any changes to the lighting plan for an adult use establishment showing the lighting inside and outside of the facility building.

Yes/No

- d. Explain any changes to a plan for disposal of any marijuana or marijuana-infused product not sold that protects any portion thereof from being possessed, used or ingested by any person or animal.

Yes/No

- e. Any different plan for ventilation of the establishment that describes the ventilation and filtration systems that will be used to prevent any odor of marijuana off the premises of the business and how the system will be monitored and tested at the licensee's expense to meet all requirements of this Ordinance and the Act, Rules, State license, and other laws and rules regarding odor control and ventilation. For grower facilities, such plan shall also include all ventilation and filtration systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the establishment. For processor establishment, such plan shall also include all ventilation and filtration systems used to mitigate and control noxious gases or other fumes used or created as part of the production and processing process.

Yes/No

- f. Any changes to the description of all herbicides, pesticides, fertilizers, chemicals, and all toxic, flammable and combustible materials that will be used or kept at the establishment, the location of such materials, and how such materials will be stored, used, and disposed of.

Yes/No

- g. Any changes to the statement and description by a Michigan licensed electrician of the amount of the projected daily average and peak electric load that will be used by the establishment, the electrical wiring and equipment existing or to be installed on the premises to service and meet the demands of the establishment.

Yes/No

- h. Any changes to the statement and description by a Michigan licensed plumber of the amount of the projected daily average and peak quantity of water that will be used by the establishment, the plumbing and equipment existing or to be installed on the premises to service and meet the water demands of and wastewater discharges.

Yes/No

- i. N/A

- (16) Indicate and explain if an adult use retail establishment will have a different education plan and/or drug/alcohol awareness program than the provisioning center:

Yes / No

- (17) Explain the number and type of additional full and part time jobs, compensation, benefits, Township resident commitments/preferences for an adult use establishment:

- (18) Explain the projected annual budget with sources of operating capital and guaranteed funding for an adult use establishment:

- (19) Explain any additional employee training and education to be provided by an adult use establishment:

- (20) Explain any additional or different community outreach/education plans and strategies for an adult use establishment:

(21) Explain any additional of different charitable plans, commitments, and strategies, whether fiscally or through volunteer work, proposed to be undertaken in the community or elsewhere proposed for an adult use establishment:

(22) Any changes to the proof of insurance on file with the Township.

Yes / No

(23) \$10,000 bond payable to Township to defend Named Applicant challenges to Township decisions. Bond is required for an adult use establishment application. If you have a bond remaining with the Township from the medical marihuana Application, you may either provide a new bond or complete a Bond Transfer and Release Form to apply the bond to the adult use establishment application process. If you do not have a bond remaining with the Township, a new bond must be provided.

(24) OPTIONAL: Any other information the Named Applicant wants to have considered by the Township in reviewing, considering and acting on the Adult Use Establishment Application.

Yes / No

Disclose below any outstanding tax obligations in any jurisdiction. If none, indicate none.

Disclose below any unpaid obligations for employee withholdings owed to a state or to the federal government. If none, indicate none.

**Waterford Township Waiver of Claims Agreement
Adult Use Establishment Application**

The Applicants agree to the following on behalf of themselves and their owners, operators, directors, officers, agents, shareholders, investors, heirs, assigns, estates, successors, parents, subsidiaries, and any other holder of any interest whatsoever (collectively, the “Applicant”):

A. Definitions. As used in herein the following terms have the following meanings:

Claim, means any cause of action or potential cause of action that arises out of the operation of or in any way relates to one or more state or local licenses for medical marijuana facilities or adult-use marijuana establishments within the Township of Waterford, including, causes of action or potential causes of action relating to the Township of Waterford’s application, licensing, inspection, enforcement, renewal, amendment, suspension, or revocation process. This definition includes, but is not limited to, claims of appeal and lawsuits arising under statutory, constitutional, contractual, and/or equitable law.

Township includes the Township of Waterford and its representatives, agents, employees, appointed and elected officials, department heads, insurers, contractors, and all boards, commissions, committees, and the members thereof.

B. All of the following apply to all Claims against the Township:

Claims against the Township must be brought within six months from the date that a final decision is issued by the Township, or such Claim will be waived and permanently barred.

C. Applicants have reviewed the Waterford Township Adult Use Establishments Ordinance, the Application, and this Waiver of Claims Form, all in their entirety, and has had the opportunity to consult with legal counsel. By submitting this Application, the Applicants agrees that the Applicants waive any right to challenge the Township’s selection process or selection criteria.

D. The issuance of a License or conditional License will be contingent on the Applicants agreeing to any other conditions imposed by the Township on the Applicants.

Under penalty of perjury, I attest, to the best of my information, knowledge, and belief, that I have read and understood the foregoing, and that I am duly authorized to sign this application and bind the Name Applicant and Applicants to its terms. [Emphasis added.]

Date:

Named Applicant

By: _____

Date:

Witness

By: _____

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. 10-319. 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 10-317(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 marihuana facility license application and information, if any, that will differ for the adult use establishment. The Named Applicant must disclose marihuana regulatory violations, criminal convictions, noncompliance with tax and employee withholding obligations 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 10-307, 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 officials, 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) 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 Planning Division 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.

DRAFT

CHARTER TOWNSHIP OF WATERFORD
BOND TRANSFER FROM MEDICAL MARIHUANA FACILITY LICENSE APPLICATION TO
ADULT USE ESTABLISHMENT APPLICATION AND RELEASE AGREEMENT FROM MEDICAL
MARIHUANA APPLICATION PROCESS

Application No. _____ Bond Amount & Form: _____ Date of Bond: _____

Named Applicant: _____ Bond provided by: _____

Names of all Applicants: _____

Description of Final Township Decision on Application: _____

Decision Date: _____ Expiration Date for Claim of Appeal: _____

As provided in Section 10-319(b)(4) of the Township Adult Use Marihuana Establishment Licensing Ordinance a bond is required with an Application. In order to have the bond held with the Medical Marihuana Facility Application apply to the Named Applicant's Application for an Adult Use Establishment License, the undersigned Named Applicant and Applicants hereby waive any and all rights: (i) to apply for leave to appeal from any Township decision on or regarding the Medical Marihuana Facility License Application and Application process and (ii) to file any other court or governmental agency complaint, petition, or other proceeding against the Township or its officials, employees, or agents based on any Township decision on or regarding the Medical Marihuana Application and Medical Marihuana Application process.

NAMED APPLICANT

Date: _____

Printed Name
Printed Title

APPLICANTS

Date: _____

Printed Name Signature

Date: _____

Printed Name Signature

Date: _____

Printed Name Signature

Date: _____

Printed Name Signature

Date: _____

Printed Name Signature