

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2017-002**

BUSINESS LICENSING BOND ORDINANCE AMENDMENT

An Ordinance to amend the Waterford Charter Township Code to allow for bonds to be required, used, returned, and forfeited in connection with applications, reviews, issuance, inspections, and enforcement of business licenses.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 10-078 is amended and a new Section 10-081 is added to Division 2 of Article III in Chapter 10, Business Regulations and Licensing, of the Waterford Charter Township Code, to read as follows:

ARTICLE III. BUSINESS LICENSING

Division 2. License Application and Review

Sec. 10-078. License issuance.

Upon confirmation of the Township Clerk that all application fees are paid, any bond required under Section 10-081 has been provided, and the application contents and subsequent Township official review of such contents confirm that the issuance of such license would not be detrimental to the health, safety and welfare of the citizens of the Township and fully comply with this Code, the Township Clerk is hereby authorized to approve and issue the requested license.

Sec. 10-081. Bonds.

A compliance status report from a Township Official under Section 10-076 may include a requirement that a bond for a specified purpose in a reasonable amount sufficient for that purpose be provided in connection with issuance of a license. If a bond is required, it shall be in a form, and be subject to the conditions, procedures, and other provisions in Division 2 of Article IV in Chapter 14 of this Code.

Section 2 of Ordinance

Section 14-154 is amended to add a new subsection (d), and Section 14-155 is amended in Division 2 of Article IV in Chapter 14, Property, Cost Recovery and Finances, of the Waterford Charter Township Code, to read as follows:

ARTICLE IV. FINANCES

Division 2. Bonds and Performance Guarantees

Sec. 14-154. Release, reduction and forfeiture of bonds.

- (a) – (c) [Unchanged]
- (d) After providing at least five (5) days written notice of its intention and reason for doing so, to the persons that provided a bond, including sureties and banks, and the licensee or holder of the permit, certificate, or approval that required the bond, a cash bond shall be forfeited and a letter of credit or surety form of bond shall be subject to draw or collection by the Township if: (i) a condition of the bond, or the Code, permit, certificate, or approval that required the bond, is not satisfied and complied with by the deadline for that compliance, or (ii) a licensee or holder of a permit, certificate, or approval fails to timely request a required Township compliance inspection or review. The proceeds of a forfeited, drawn, or collected bond shall be applied or held by the Township toward the cost of curing defaults, achieving compliance, and the Township's administrative costs under Section 14-155. A notice given under this section may be provided by first class mail or other delivery to addresses provided to the Township, or personal delivery at any location.

Sec. 14-155. Default and use and disposition of bonds.

- (a) In the event of a default in complying with one or more requirements or conditions of a bond or the Code, permit, certificate, or approval that required it, the Township shall have the right, but not the obligation, to use the proceeds of a bond that has been forfeited, or subject to draw or collection under Section 14-154, to complete improvements or take the appropriate actions necessary to cure or satisfy the default and achieve compliance with the Code, permit, certificate, or approval requirements or conditions. Prior to doing that, the Township shall provide a final written notice and opportunity to cure the default in a time and manner specified in the notice, to the persons that provided the bond and that obtained the Township permit, certificate, or approval. For such purposes, the application for the permit, certificate or approval for which the bond was provided shall be deemed to have authorized the right of the Township, by its employees, agents, consultants, and contractors to enter upon the property for those purposes. A notice given under this section may be provided by first class mail or other delivery to addresses provided to the Township, or personal delivery at any location.
- (b) If the bond proceeds are insufficient in amount to pay for the costs that are or will be incurred by the Township under subsection (a), the persons that provided the bond and/or that obtained the Township permit, certificate, or approval shall be required to pay and are liable to the Township, jointly and severally, for such additional amounts, which shall be paid within 30 days of the Township's written notice of the deficiency.
- (c) If the Township incurs actual costs in exercising its right to cure or satisfy a default and achieve compliance under subsection (a), any portion of the

proceeds of a forfeited, drawn upon, or collected bond that remain after payment of: (i) all actual costs, (ii) the Township's administrative costs equal to 10% of the actual costs, and (iii) any actual attorney and consultant fees incurred by the Township, shall be refunded to the person who provided the bond funds that were used by the Township.

- (d) If defaults in compliance with requirements or conditions of a bond, Code, permit, certificate, or approval are cured or satisfied and compliance is achieved by persons other than the Township but after a bond that has been forfeited, or subject to draw or collection under Section 14-154, any bond proceeds that remain after payment of any actual attorney and consultant fees incurred by the Township and administrative costs equal to 5% of the bond amount, shall be refunded to the source of the forfeited, drawn upon, or collected bond proceeds held by the Township.

Section 3 of Ordinance

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 4 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on May 22, 2017.

CHARTER TOWNSHIP OF WATERFORD

By: _____

Sue Camilleri, Township Clerk

5-22-2017
Date