

**VERSION 2 THAT WAS PRESENTED BY THE TOWNSHIP ATTORNEY ON 9/24/2020
FOR THE PLANNING COMMISSION 9/29/2020 PUBLIC HEARING**

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2020-Z-008

MEDICAL MARIHUANA TEXT AMENDMENTS TO ZONING ORDINANCE

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

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 1-007, Index of Defined Terms, of the Waterford Township Zoning Ordinance is amended to add new defined terms to read as follows:

MEDICAL MARIHUANA USES AND DEFINED TERMS.

Licensed Medical Marihuana Grower. A facility that has and is in compliance with medical marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA Rules, and Tracking Act, that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center or another grower as medical marihuana only.

Licensed Medical Marihuana Processor. A facility that has and is in compliance with medical marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA Rules, and Tracking Act, that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer as medical marihuana only in packaged form to a provisioning center or another processor.

Licensed Medical Marihuana Provisioning Center. A facility that has and is in compliance with medical marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA Rules, and Tracking Act, that purchases marihuana from a grower or processor and sells, supplies, or provides medical marihuana to qualifying patients, directly or through the patients' primary caregivers, and includes any location where marihuana is sold at retail only to qualifying patients or primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the registration process under the MMMA is not a provisioning center under this Ordinance.

Licensed Medical Marihuana Safety Compliance Facility. A facility that has and is in compliance with medical marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA Rules, and Tracking Act, that takes medical marihuana from a facility or receives it from a registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility or primary caregiver.

Licensed Medical Marihuana Secure Transporter means a facility that has and is in compliance with medical marihuana state and township licenses, and is in compliance with the MMFLA, MMFLA Rules, and Tracking Act, that stores and transports medical marihuana between facilities for a fee.

Marihuana. As defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Medical Marihuana. Marihuana and marihuana-infused products to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

Medical Marihuana Facility. A specific location that has and is in compliance with medical marihuana state and township licenses to operate as a medical marihuana grower, processor, provisioning center, safety compliance facility, or secure transporter.

Medical Marihuana Primary Caregiver, or Primary Caregiver. A primary caregiver as defined in, who has been issued a current registry identification card under, and is in compliance with, the MMMA and MMMA Rules.

Medical Marihuana Qualifying Patient, or Qualifying Patient. A qualifying patient as defined in and who has been issued a current registry identification card under, or a visiting qualifying patient as defined in, the MMMA.

Medical Marihuana State License. A license issued under the MMFLA allowing a person to operate as a medical marihuana grower, processor, provisioning center, safety compliance facility, or secure transporter.

Medical Marihuana Township License. A license issued by the Township under the Medical Marihuana Facility Licensing Ordinance codified in Division 12 of Article III in Chapter 10 of the Waterford Charter Township Code.

Medical Use of Marihuana. Acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of medical marihuana by a medical marihuana primary caregiver for that caregiver and up to five (5) medical marihuana qualifying patients.

MMFLA. The Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq.

MMFLA Rules. The administrative rules promulgated to implement the MMFLA, R 333.201 et. seq.

MMMA. The Michigan Medical Marihuana Act, 2008 IL, MCL 333.26421 et seq.

MMMA Rules. The administrative rules promulgated under the MMMA, R 333.101 et. Seq.

Tracking Act. The Michigan Marihuana Tracking Act, Public Act 282 of 2016, MCL 333.27901 et seq.

Section 2 of Ordinance

The definition of Home Occupation in Section 1-007, Index of Defined Terms, of the Waterford Township Zoning Ordinance is amended by adding a new subsection J, to read in its entirety as follows:

HOME OCCUPATION. An accessory use which is:

- A. clearly incidental and secondary to the use of the dwelling for residential purposes;
- B. undertaken, completed, and managed solely by the current residents without employees;
- C. conducted entirely within the dwelling, with no exterior storage of equipment, materials, or refuse resulting from the operation of the home occupation;
- D. conducted in conformance with the residential character and appearance of dwellings and zoning lots in the surrounding neighborhood and does not utilize colors, materials, internal or external alterations, lighting, show windows or advertising visible outside of the premises to attract customers or clients;
- E. conducted without equipment and processes which create public nuisances or private nuisances to abutting or adjoining occupiers of land with respect to traffic, parking, noise, vibration, glare, fumes, odors, dust, electrical interference detectable to the normal senses off of the zoning lot, or visible or audible interferences in any radio or television receivers off of the premises;
- F. limited to an area of a dwelling's gross floor area not exceeding twenty (20) percent;
- G. limited to signage permitted in residential districts in accordance with this Zoning Ordinance;
- H. prohibited from the sale and physical exchange of commodities on the premises, except such as produced by such occupation; and
- I. prohibited from generating traffic in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met on the driveway.
- J. not a medical marihuana primary caregiver use unless it complies with the applicable regulations in Section 2-604.**

Such uses as a clinic, hospital, animal hospital, kennel, millinery shop, and dancing school shall not be deemed to be home occupations. Personal grooming establishments shall not be deemed to be home occupations, but home haircutting provided occasionally to a clientele limited to friends and family of a permanent resident of the dwelling in which the services are being provided is a home occupation.

Section 3 of Ordinance

A new Section 2-604, Regulations for Medical Marihuana Uses, is added in Division 2-6, Use Restrictions Applicable to all Zoning Districts, to read as follows:

SECTION 2-604. REGULATIONS FOR MEDICAL MARIHUANA USES

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

2. Approval Procedures, Conditions, Fees.

A. All medical marihuana uses must be approved under the site plan review procedures and requirements in Section 4-004. A single medical marihuana primary caregiver's accessory use of a dwelling as an accessory use home occupation shall be reviewed under the Change of Use site plan review process in Section 4-004.1. All other proposed uses shall require major site plan review based on the criteria in Section 4-004.3.

B. Compliance with all regulations in this Section shall be shown on the site plan or otherwise documented in the site plan approval application, with such compliance to be a condition of every certificate of zoning approval or occupancy and every permit issued by the Township for that use.

C. The regulations in this Section are regulations related to the use of land, from which variances may not be granted. If a medical marihuana use is proposed for a building or zoning lot that is nonconforming, Section 2-702 shall apply in determining the level of required compliance with the regulations in this Section.

D. In addition to the fees that apply to site plan review, if to demonstrate compliance with the regulations in this Section, a review or inspection by a Township employee or official is necessary before the site plan application can be completed, the applicant shall also pay the fees associated with that review or inspection in the amount established by resolution of the Township Board.

3. Medical Marihuana Primary Caregivers.

A. A single medical marihuana primary caregiver may engage in the medical use of marihuana in the caregiver's residence dwelling as an accessory use if in compliance with all of the standards for a Home Occupation as defined in Section 1-007, and all of the following regulations for a medical marihuana primary caregiver:

- (1) Is in a detached single-family dwelling or a stand-alone mobile home dwelling.

- (2) Is the only primary caregiver use of that dwelling.
- (3) Has received and is in compliance with all required permits (including electrical, plumbing, and mechanical), inspections, and certificates under the State Construction Code Ordinance codified in Article III of Chapter 4 of the Waterford Charter Township Code and certificates of zoning approval and occupancy for such use under this Ordinance
- (4) Is inspected by the Township Fire Department and determined to be in compliance with the fire and explosion hazard and hazardous substance storage performance standards in Sections 2-201 and 2-202 of this Ordinance and the Township Fire Prevention Code Ordinance in Article II of Chapter 7 of the Waterford Charter Township Code.
- (5) Equipped with properly maintained and operational ventilation, filtration, and other equipment as necessary to comply with the air contaminants and odor performance standards in Sections 2-204 and 2-205 of this Ordinance.

B. Up to six (6) medical marihuana primary caregivers may engage in the medical use of marihuana on a zoning lot in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts after wellhead protection compliance, as provided in Sections 3-806.4.I, 3-807.4.J, and 3-709.3.D(6) of this Ordinance if the following regulations are complied with:

- (1) All caregiver use, operations, and storage shall be in a fully enclosed building.
- (2) Each caregiver's use area must be visibly identified and marked and be physically separated by walls or floors/ceilings from other caregiver use areas, with no doors, windows, or other openings between caregiver use areas.
- (3) Each caregiver's use area shall be locked at all times it is not being used by the primary caregiver, who shall be the only person with the key or combination for the lock, and access to each caregiver use area shall only be by the primary caregiver and the qualifying patients of that caregiver.
- (4) Each caregiver area shall have received and be in compliance with all required permits (including electrical, plumbing, and mechanical), inspections, and certificates under the State Construction Code Ordinance codified in Article III of Chapter 4 of the Waterford Charter Township Code and certificates of zoning approval and occupancy for such use under this Ordinance.
- (5) Each caregiver area shall be inspected by the Township Fire Department and be in compliance with the fire and explosion hazard and hazardous substance storage performance standards in Sections 2-201 and 2-202 of this Ordinance and the Township Fire Prevention Code Ordinance in Article II of Chapter 7 of the Waterford Charter Township Code.
- (6) Each caregiver area shall be equipped with properly maintained and operational ventilation, filtration, and other equipment as necessary to comply with the air contaminants and odor performance standards in Sections 2-204 and 2-205 of this Ordinance.

- (7) An operations statement describing the life-cycle of marihuana and marihuana-infused products that will be entering, stored on, grown, dried, and leaving the site, how deliveries are handled, methods of storage and disposal, cash handling, a business floor plan, and hours of operation shall be submitted and complied with.
- (8) A detailed plan for the safety and security of marihuana, customers, employees, and neighboring residents, offices, or businesses shall be submitted and complied with.
- (9) A water/wastewater plan based on the maximum number of plants allowed for the number of primary caregivers that specifies the methods to be used to ensure compliance with restrictions and limitations on discharges into the wastewater system of the Township, 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 shall be submitted and complied with.
- (10) The vehicle, signs, fences, and screening and landscaping regulations in Section 3-802, with temporary and portable signs prohibited and Planning Commission enhancements, reductions, or waivers of screening and landscaping requirements not allowed.
- (11) Conformity to the applicable provisions of the Engineering Standards and Site Planning and Landscape Design Standards established under Sections 5-003 and 5-004.
- (12) The MMMA (Medical Marihuana Act) and MMMA Rules.
- (13) No smoking, inhalation, or consumption of marihuana shall take place on the premises.
- (14) No marihuana shall be visible from the exterior of the building.
- (15) Selling of any non-marihuana products is prohibited.

4. Use Regulations for all Licensed Medical Marihuana Uses. Compliance with the following use regulations is required for licensed medical marihuana growers, processors, provisioning centers, safety compliance facilities, and secure transporters to be a permitted use in the zoning districts in which they are allowed:

- A. The Township Board approved site, building, and comprehensive facility operation and security plans for the Grower's license, which shall be submitted and considered as the site plan to be complied with.
- B. To the extent not addressed in the Township Board license approved security plan, a detailed safety and security plan for marihuana, employees, and others at the premises, and for neighboring residents, offices, and businesses must be submitted as a site plan document, and upon approval be complied with.
- C. To the extent not addressed in the Township Board license approved facility operation plan, an operations statement that describes the life-cycle of marihuana and marihuana-infused products entering, stored on, grown, dried, and leaving the site, how deliveries are handled, methods of storage, cash handling, a business floor plan, hours of

operation, and other operational information shall be submitted as a site plan document, and upon approval be complied with.

D. To the extent not addressed in the Township Board license approved facility operation plan, a water/wastewater statement that describes the expected volume of water used and any on-site wastewater treatment permits required for wastewater disposal and the expected volume of wastewater based on the maximum number of plants allowed in that facility's grower class shall be submitted as a site plan document and upon approval be complied with.

E. The Medical Marihuana Township License and the standards, terms, and conditions of that license under Section 10-306 of the Waterford Charter Township Code.

F. The vehicle, signs, fences, and screening and landscaping regulations in Section 3-802, with temporary and portable signs prohibited and Planning Commission enhancements, reductions, or waivers of screening and landscaping requirements not allowed.

G. The applicable provisions of the Engineering Standards and Site Planning and Landscape Design Standards established under Sections 5-003 and 5-004.

H. All use, operations, and storage shall be in a fully enclosed building, with no marihuana to be visible from outside the building.

I. The smoking, inhalation, and consumption of marihuana on the premises is prohibited.

J. The retail sale of marihuana and other products on the premises is prohibited with the exception of provisioning centers where the retail sale of medical marihuana or paraphernalia for the administration of medical marihuana to medical marihuana qualifying patients is allowed.

K. The Medical Marihuana State License and the MMFLA, MMFLA Rules, and Tracking Act.

5. Licensed Medical Marihuana Growers. Licensed medical marihuana growers are permitted on zoning lots in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-806.4.H, 3-807.4.I, and 3-709.3.D(5) of this Ordinance if the use regulations in subsection 4 are complied with.

6. Licensed Medical Marihuana Processors. Licensed medical marihuana processors are permitted on zoning lots in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-806.4.H, 3-807.4.I, and 3-709.3.D(5) of this Ordinance if the use regulations in subsection 4 are complied with.

7. Licensed Medical Marihuana Provisioning Centers. Licensed medical marihuana provisioning centers are permitted on zoning lots in the C-2, Small Business, C-3, General Business, C-4, Extensive Business, and Summit Place Overlay Districts as provided in Sections 3-704.3.K, 3-705.3.Q, 3-706.3.W, and 3-709.3. of this Ordinance if the use regulations in subsection 4 and the following regulations are complied with:

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

8. Licensed Medical Marihuana Safety Compliance Facilities. Licensed medical marihuana safety compliance facilities are permitted on zoning lots in the HT-1, High Tech Office, HT-2, High Tech Industrial and Office, M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-804.3.I, 3-805.3.I, 3-806.3.H, 3-807.3.E, and 3-709.3.D(4) of this Ordinance if the use regulations in subsection 4 are complied with.

9. Licensed Medical Marihuana Secure Transporters. Licensed medical marihuana secure transporters are permitted on zoning lots in the M-1, Light Industrial, M-2, General Industrial, and Summit Place Overlay Districts as provided in Sections 3-806.3.H, 3-807.3.E, and 3-709.3.D(4) of this Ordinance if the use regulations in subsection 4 are complied with.

Section 4 of Ordinance

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

- K. Licensed medical marihuana provisioning centers that comply with the applicable regulations in Section 2-604. (*See Medical Marihuana Establishments and Defined Terms in Section 1-007*).

Section 5 of Ordinance

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

- Q. Licensed medical marihuana provisioning centers that comply with the applicable regulations in Section 2-604. (*See Medical Marihuana Establishments and Defined Terms in Section 1-007*).

Section 6 of Ordinance

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

- W. Licensed medical marihuana provisioning centers that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*

Section 7 of Ordinance

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

- D. The following permitted principal uses and permitted uses after wellhead protection compliance that are listed in Sections 3-806.3 and 3-806.4 as allowed in the M-1 District:
- (1) Freight handling facilities with direct access, including by an internal street in the District, to a major arterial street.
 - (2) Heavy equipment rental establishments that are conducted within the principal building and do not utilize outdoor display or storage of vehicles, machinery, or equipment.
 - (3) Outdoor storage as an accessory use for freight handling facilities permitted under subsection D (1), with no requirement that such storage be located to the rear of the principal building, but subject to the following:
 - (a) The outdoor storage is in trailers parked in designated trailer parking spaces or truck docks on the site.
 - (b) The outdoor storage is temporary, with stored items to be in the trailer that was or will be used to transport those items to or from the site.
 - (c) The outdoor storage shall not be located in a yard between the principal building for the use and Telegraph Road, Elizabeth Lake Road, Summit Drive, or an adjacent existing residential use.
 - (d) No truck shall be stored on the site for more than 15 consecutive days.
 - (4) Licensed medical marihuana secure transporters and licensed medical marihuana safety compliance facilities that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*
 - (5) Licensed medical marihuana growers and licensed medical marihuana processors after wellhead protection compliance that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*
 - (6) Up to six (6) medical marihuana primary caregivers after wellhead

protection compliance that comply with the applicable regulations in Section 2-604. (See *Medical Marihuana Establishments and Defined Terms in Section 1-007*).

Section 8 of Ordinance

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

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

Section 9 of Ordinance

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

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

Section 10 of Ordinance

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

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

Section 11 of Ordinance

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

- H. Licensed medical marihuana growers and licensed medical marihuana processors that comply with the applicable regulations in Section 2-604. (*See Medical Marihuana Establishments and Defined Terms in Section 1-007*).
- I. Up to six (6) medical marihuana primary caregivers that comply with the applicable regulations in Section 2-604. (*See Medical Marihuana Establishments and Defined Terms in Section 1-007*).

Section 12 of Ordinance

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

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

Section 13 of Ordinance

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

- I. Licensed medical marihuana growers and licensed medical marihuana processors that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*
- J. Up to six (6) medical marihuana primary caregivers that comply with the applicable regulations in Section 2-604. *(See Medical Marihuana Establishments and Defined Terms in Section 1-007).*

Section 14 of Ordinance

The effective date of this Ordinance shall be January 4, 2021 or the 8th day after publication, whichever is later, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

CERTIFICATION

I certify that this Zoning Ordinance Text Amendment was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on _____, 2020.

Date

Kimberly F. Markee, Township Clerk

Introduced:
Adopted:
Published: