

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2020-005**

MEDICAL MARIHUANA FACILITY LICENSING ORDINANCE

An Ordinance to amend Article III in Chapter 10 of the Waterford Charter Township Code to add a new Division 12 to allow and provide for the licensing and regulation of medical marihuana facilities in the Township and to provide penalties and sanctions for violations of this Ordinance and licenses issued under it.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The Waterford Charter Township Code is amended by adding Sections 10-291 through 10-309 in a new Division 12, Medical Marihuana Facilities, in Article III, Business Licensing, of Chapter 10, Business Regulations, Licensing and Registration to read as follows:

Division 12. Medical Marihuana Facilities

Sec. 10-291. Title.

This Division shall be known and cited as the "Medical Marihuana Facility Licensing Ordinance."

Sec. 10-292. Purpose.

The purpose of this Ordinance is to exercise the Township's authority under the Medical Marihuana Facilities Licensing Act, Michigan Public Act 281 of 2016, as amended, to adopt an ordinance to authorize, limit the number of, locally license, and regulate medical marihuana facilities in the Township in a manner that protects the public health, safety, and welfare of the Township and its residents and property owners by:

- (a) Requiring comprehensive information from all applicants for Township licenses and establishing criteria under which license applications will be reviewed.
- (b) Restricting approval and issuance of licenses to applicants with a demonstrated commitment to the Township and in operating a facility in compliance with this and other ordinances, the license, and all other applicable laws, licenses, permits, and approvals.
- (c) Requiring compliance with applicable state laws and licenses as Township license conditions.
- (d) To the extent allowed by law, establishing additional regulations that are not in state laws and licenses.
- (e) Establishing reasonable limitations on operations related to odor, visibility, hours, safety, security, and other aspects of licensed facilities.
- (f) Protecting residential and other sensitive areas and uses in the Township by restricting the number and location of licensed facilities and establishing minimum requirements for licensing and standards for operations.

- (g) Requiring application and annual fees to help defray administrative and enforcement cost associated with the licensing and operation of facilities.
- (h) Establishing penalties and sanctions for ordinance or license violations.

Sec. 10-293. Legislative Intent.

- (a) The intent in adopting this Ordinance is to authorize a limited number of facilities to be licensed in the Township to provide safe and more conveniently available medical marihuana for Township residents that are qualifying patients or primary caregivers 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 medical marihuana by licensed facilities.
- (b) The intent in requiring facilities to have a Township license in addition to a state license and establishing local regulations in addition to state regulations is to recognize and address local impacts on the Township, its residents, and property owners from the commercialization of medical marihuana, and protect the public over medical marihuana facility interests, which shall at all times be subordinate to the interests of the Township and 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, a medical marihuana facility 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.
- (e) Considering (i) the large number of anticipated license applicants for the limited number of facilities authorized, (ii) an objective of promptly having those facilities available to serve qualifying patients and primary caregivers in the Township, (iii) the importance of those facilities being opened, operated, and continued as contributing members of the Township's local business community, and (iv) the anticipated varying degrees of financial resources and background, ties, and involvement with the Township and the residents and community it serves of license applicants, the license application and review criteria in this Ordinance are intended to identify and favorably consider applicants with the demonstrated ability to promptly open and permanently operate a proposed facility in a safe, responsible, professional, and civic minded manner that will contribute to, support, and have a positive effect on the health, safety, and welfare of the public in the Township including its residents, property and business owners, and civic, community, and charitable organizations and causes.
- (f) The authorization of the limited number of facilities that may be licensed under this Ordinance is not intended and shall not be construed as a commitment, agreement, or obligation by the Township to approve licenses for all or any of those facilities. The intention is that any decision to approve or deny a license application that is not required to be denied for reasons specified in this Ordinance shall be in the sole and absolute

discretion of the Township Board of Trustees exercised in accordance with the specified license application review criteria and substantial, material, and competent evidence in the record.

Sec. 10-294. 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, that are adopted by reference, unless defined differently in this Ordinance:
 - (1) Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
 - (2) Michigan Medical Marihuana Act, MCL 333.26421 et seq.
 - (3) Marihuana Tracking Act, MCL 333.27901 et seq.
 - (4) Medical Marihuana Facilities Administrative Rules, R 333.201 et seq.
- (b) As used in this Ordinance, the following words, terms, and phrases shall have the meanings indicated.

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

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 Act (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 10-300(b).

Facility means a specific location at which a person is licensed to operate under this Ordinance as a grower, processor, provisioning center, safety compliance facility, or secure transporter of or for medical marihuana, but does not include a location at which up to six (6) primary caregivers are only engaging in medical use of marihuana as defined, allowed, and limited in the MMMA and Township Zoning Ordinance.

Grower means a person located in Michigan, who cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center or another grower as medical marihuana only.

License means a license issued by the Township under this Ordinance for a facility.

Licensee means a person issued a Township license under this Ordinance for a facility.

Medical marihuana means 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 Act or MMMA means the Michigan Medical Marihuana Act, 2008 IL MCL 333.26421 et seq.

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

Person means an: (i) individual, (ii) privately or publicly held or nonprofit corporation, (iii) limited liability company, (iv) general, limited, or limited liability partnership, (v) multilevel ownership enterprise, (vi) trust, or (vii) other legal entity.

Processor means a person located in Michigan who 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.

Provisioning center means a person located in Michigan who 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 medical marihuana is sold at retail only to qualifying patients or primary caregivers. A location only 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.

Primary caregiver means a primary caregiver who has been issued a current registry identification card under the MMMA and MMMA Rules.

Qualifying patient means a qualifying patient who has been issued a current registry identification card under, or a visiting qualifying patient as defined in, the MMMA and MMMA Rules.

Rules means the administrative rules promulgated to implement the Act, R 333.201 et seq.

Safety compliance facility means a person 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 medical marihuana to the facility or caregiver.

Secure transporter means a person located in Michigan that stores medical marihuana and transports medical marihuana between facilities for a fee.

State Board means the medical marihuana licensing board created under Part 3 of the Act.

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

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

Sec. 10-295. 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.*
 - (1) 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 MMMA, the Act, the Tracking Act, 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.
 - (2) This Ordinance and its license requirement does not apply to primary caregivers engaged in the medical use of marihuana at a location and in compliance with the MMMA or to persons that own or have possession and control of a location where up to six (6) primary caregivers are proposed to be engaged in the medical use of marihuana under the MMMA provided that the location is in a Zoning District that allows such use and all approvals, permits, and certificates required by the Zoning Ordinance, State Construction Code, and all other Township Ordinances are obtained and complied with.

Sec. 10-296. 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 facility 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 a facility; (ii) claims arising out of the operation of, or use of a product cultivated, processed, distributed or sold by or from, a facility; (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.

Sec. 10-297. Facility licensing required.

No person shall act as a grower, processor, provisioning center, safety compliance facility, or secure transporter in the Township without applying for, obtaining, maintaining, and complying with a facility license from the Township under this Ordinance.

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	2
Safety Compliance Facility	2
Secure Transporter	2

(b) Nothing in this Ordinance obligates the Township to approve all of the licenses authorized in subsection (a).

(c) A separate license shall be required for each facility. More than one (1) type of facility license may be applied for, approved, and issued for the same location. No more than one (1) of each type of facility license may be applied for, approved and issued for the same location.

(d) As authorized by Section 205 of the Act, MCL 333.27205(2), 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 or licensee.

(f) A facility 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 applicant of such abatement, decrease, or advantage.

Sec. 10-299. Facility location and minimum requirements.

(a) A facility license is not authorized and shall not be applied for, approved, or issued:

(1) For a location that is not separated from residentially zoned property, child day care facilities not on residentially zoned property, educational facilities, religious facilities, and recreational facilities other than a boat launch, boat livery, fitness center, golf course, golf driving range, or health/recreation facility as established under and defined in the Township Zoning Ordinance, by:

a. A public street having at least five (5) paved motor vehicle lanes; or

b. At least 750 feet for grower facilities and 500 feet for all other facilities, with the measurement to be the shortest distance along the centerlines of public streets between property or zoning lines extended to those centerlines.

The locations of properties and facilities listed above shall be shown on a Medical Marihuana Facility Protected Location Map to be prepared, maintained, and kept

current by the Zoning Official and publicly available for inspection and copying in the offices of the Zoning Official and Township Clerk.

- (2) For a location that will not be lawfully connected to and serviced by the Township's public water and sanitary sewer systems.
- (3) Unless all facility operations except vehicle parking will be inside a fully enclosed building.
- (4) For a location that does not have direct access to a public or private right-of-way as required by Section 2-301 of the Township Zoning Ordinance.
- (5) For a location in a District under the Township Zoning Ordinance that does not allow the proposed facility as a permitted principal use or permitted use after wellhead protection compliance.
- (6) For the expansion or substantial improvement of a building or property that increases its nonconformity unless allowed under Section 2-702 of the Township Zoning Ordinance.
- (7) For a property that has any past due property taxes, special assessments, water and sewer bills, or other financial obligation to the Township.
- (8) If the corresponding state license has not been applied for or has been denied.

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

- (a) The license procedure involves four (4) stages which are: (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.
- (b) A license application shall not be accepted by the Township Clerk for filing if it is for a type of facility license that is not available because the number of authorized licenses for that type of facility under Section 10-298 have already been approved for issuance by the Township Board.
- (c) A license application for a facility shall not be filed until after an application prequalified under the Rules as satisfying the requirements of MCL 333.27401(1) in the Act and R 333.205(2) and R 333.206 in the Rules for the corresponding state license has been made. The Township Board shall not consider approving a license if the corresponding state license has been denied.
- (d) Any Township Board approval or approval with conditions of a license for a facility 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. 10-301. License application requirements.

(a) Applications for a facility 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 Township Board as provided in Section 10-055. The filing of an application constitutes consent to inspection of the proposed facility location by employees or agents of the Township and agreement to the limited right to appeal a Township decision on the application provided for in Section 10-307 as the sole judicial relief and remedy available for challenging such decision.

(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 (25) 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.

(1) Copy of the application filed and prequalified under the Rules as satisfying the requirements of MCL 333.27401(1) in the Act and R 333.205(2) and R 333.206 in the Rules for the corresponding state license.

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

- a. If other than an individual, 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.
- b. Documentation of good standing and authority to do business in Michigan.
- c. All assumed or other names under which the Named Applicant does business.

(3) For each of the Applicants, including the Named Applicant, all of the following information:

- 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.

- b. Information and criminal records required by Sections 10-071(d) and (e).
- c. Types, locations, and histories of past and current businesses conducted, including compliance with and violations of ordinances, codes and other laws.
- 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.
- e. Types and histories of prior and current permits, licenses, franchises, contracts, or other approvals from state or local governments.
- f. Prior dealings and contracts with the Township.
- g. Presence in, proximity to, and economic, community, or other ties to the Township through offices, facilities, property ownership, Township residents employed, civic, community and charitable groups or causes supported, or otherwise.
- h. References.
- i. Prior bankruptcies and details.
- j. Prior civil litigation and details.
- k. Prior unfair labor practice complaints and details.

(4) Written consents or approvals of facility by all Applicants.

(5) Documentation of Named Applicant ownership or interest in property (deed, land contract, purchase agreement, lease, option to purchase or lease, or other.)

(6) If Named Applicant does not own property, written consent or approval of application by all owners must be provided.

(7) 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.

(8) Written consents or approvals of proposed facility by owners and occupants of adjoining properties or areas of building proposed for use, if any.

(9) Written support for proposed facility from Township property owners, business owners, and residents, if any.

(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 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.

- (11) If Named Applicant does not own property, a signed document by all owners of the property approving the site and building plans must be provided.
- (12) A signed construction cost estimate for the property and building improvements shown on the site and building plans by a licensed architect or builder competent to provide such an estimate and dated no earlier than three (3) months before the application is submitted.
- (13) Documentation of the sources of funding for the estimated construction cost.
- (14) Contracts, if any, to construct or install any of the improvements on the site and building plans, and estimated time required to start and complete construction.
- (15) A comprehensive facility operation plan that complies with all license standards, terms, and conditions in Section 10-306 and that includes at least all of the following:
 - a. A security plan and narrative depicting and fully describing the manner and equipment by which the applicant will comply with the requirements of this Ordinance and any other applicable law, rule, or regulation, and the details of all security arrangements to protect the facility and the safety of its employees and members of the public who are lawfully on the premises of the facility. Each facility must be protected by one (1) or more private security guard or private security police personnel covered by a license issued under Public Act 330 of 1968, as amended, that are lawfully armed with a firearm and present 24 hours a day, 7 days a week, with two (2) such guards required at provisioning centers during business hours, with one stationed indoors and the other stationed outdoors.
 - 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.
 - c. A lighting plan showing the lighting inside and outside of the facility building.
 - d. A plan for disposal of any marihuana or marihuana-infused product not sold to a patient or primary caregiver that protects any portion thereof from being possessed, used or ingested by any person or animal.

- e. A plan for ventilation of the facility that describes the ventilation and filtration systems that will be used to prevent any odor of medical marihuana 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 facility. For processor facilities, 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.
- f. A description of all herbicide, pesticide, fertilizer, chemicals, and all toxic, flammable and combustible materials that will be used or kept at the facility, the location of such materials, and how such materials will be stored, used, and disposed of.
- g. A 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 facility, the electrical wiring and equipment existing or to be installed on the premises to service and meet the demands of the facility, and certification that the premises is or will be equipped in accordance with all applicable codes, to safely receive, use, and dispose of the anticipated and required electric load for the facility.
- h. A 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 facility, the plumbing and equipment existing or to be installed on the premises to service and meet the water demands of and wastewater discharges from the facility, and certification that the premises is or will be equipped in accordance with all applicable codes, to safely receive, use, and dispose of the anticipated water for and wastewater from the facility.
- i. Proposed hours of operation, which for provisioning centers shall not exceed the hours specified in Section 10-306(l).

(16) For provisioning centers: (a) a patient education plan that details benefits or drawbacks of marihuana strains or products that will be available at the facility in connection with the debilitating medical conditions set forth in the MMMA; and (b) a description of drug and alcohol awareness programs that shall be provided or arranged for by the applicant and made available for the public.

(17) The number and type of full and part time jobs that the facility is expected to create, the amount and type of compensation to be paid and benefits to be provided for such jobs, and the commitment or preference to be given to employing Township residents.

- (18) The projected annual budget of the facility that itemizes all expenses, revenue, and sources of operating capital, and any personal guarantees by individual Applicants to provide funding for operations.
- (19) A description of the training and education that the Named Applicant will provide to all employees.
- (20) A description of any community outreach/education plans and strategies proposed to be undertaken and committed to by the Named Applicant.
- (21) A description of any charitable plans, commitments, and strategies, whether fiscally or through volunteer work, proposed to be undertaken in the community or elsewhere and committed to by the Named Applicant.
- (22) 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.
- (23) 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 Claim of 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.
- (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.
- (25) 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. VIOLATION OF THIS PROHIBITION WILL RESULT IN DENIAL OF 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 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. 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.
- (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 a timely withdrawal, 95% of the otherwise nonrefundable application fee shall be returned.
- (f) To the extent required by Section 205 of the Act (MCL 333.27205(4)), and not waived by a Named Applicant, the application documents submitted for a facility 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 to reviews, reports, and recommendations under Section 10-302 that contain information from those documents.

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

- (a) The Township Clerk's office shall review the Application form and attachments, and within 20 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 10-301(b) (1) through (24) 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. 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 10 business days of receipt. If 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 10 business days of that notice, it shall be treated and considered as abandoned and the application fee shall be forfeited to the Township. Only administratively complete Applications shall be distributed by the Clerk's office for review as provided in this section.

(b) Upon determining an Application to be administratively complete, the Clerk's office shall distribute copies to the following Township personnel for review, investigation, and submission of reports to the Clerk's office within 60 days, or a longer time approved by the Township Board based on the number of Applications to be reviewed:

- (1) Zoning Official, whose report shall be under the standards in Section 10-075 and shall also address:
 - a. Compliance with the facility location and minimum requirements in Section 10-299(a), subsections (1), (3), (4), (5) and (6).
 - b. Compliance of the site and building plans with the Zoning Ordinance, including identification of the nature and extent of any variances that would be required.
 - c. Compliance and consistency of the facility operation plan with the Zoning Ordinance.
 - d. Any Zoning Ordinance based concerns with the title documents.
 - e. Any opinion on the accuracy of the construction cost estimate.
 - f. Any Zoning Ordinance based concern with any aspect of the application.
 - g. A comparison of the site, building, and facility operation plans to those plans for other applications for the same type of facility license with respect to compliance with or exceeding minimum standards under the Zoning Ordinance.
- (2) Police Chief, whose report shall be under the standards in Section 10-074 for each Applicant and shall also address:
 - a. Any law enforcement concerns with the site and building plans.
 - b. Any law enforcement concerns with the facility operation security plan.
 - c. Any law enforcement concerns with the facility operation lighting plan.
 - d. A comparison from a law enforcement perspective of the site, building, facility operation security, and facility operation lighting plans to those plans for other applications for the same type of facility license.
- (3) Fire Chief, whose report shall address:
 - a. Compliance of the site, building, and facility operation plans with the Township's Fire Prevention Code, including the provisions regarding storage, use, and disposal of herbicides, pesticides, fertilizer, chemical, toxic, flammable, and combustible materials.
 - b. A comparison of site, building, and facility operation plans to the plans for other applications for the same type of facility license with respect to

complying with or exceeding the minimum standards under the Fire Prevention Code.

- (4) Building Official, whose report shall address compliance of the site, building, and facility operation plans with the State Construction Code, and:
 - a. Any opinion on the accuracy of the construction cost estimate.
 - b. The proposed electrical load as described in the facility operations plan.
 - c. A comparison of the site, building, and facility operation plans to those plans for other applications for the same type of facility license with respect to complying with or exceeding the minimum standards under the State Construction Code.
- (5) Public Works Official, whose report shall address:
 - a. Compliance with the facility location requirements in Section 10-299(a)(2).
 - b. The proposed water usage demand and wastewater discharge plan as described in the facility operation plan.
 - c. Compliance of the site, building, and facility operation plans with the Township's Water and Sewer Ordinances and requirements under those Ordinances.
 - d. Identification of any delinquent water and sewer bill payments in the last 10 years on accounts in the name of any of the Applicants.
 - e. A comparison of the site, building, and facility operation plans to those plans for other applications for the same type of facility license with respect to complying with or exceeding the minimum standards under the Township's Water and Sewer Ordinances and requirements under those Ordinances and the water usage demands and wastewater discharge plans.
- (6) Assessing Official, whose report shall address:
 - a. Ownership according to Assessing records.
 - b. If location is a legally recognized tax parcel.
 - c. Compliance with Property Transfer Affidavit filing requirements.
 - d. Current assessed and taxable values.
 - e. Any opinion on the accuracy of the construction cost estimate based on assessing guidelines.
 - f. Any assessing concerns with the title documents.

- (7) Treasurer, whose report shall address:
 - a. The facility location requirement in Section 10-299(g).
 - b. Identification of any delinquent property taxes or special assessments in the last 10 years on accounts in the name of any of the Applicants or for any of the properties in the Township required to be disclosed in the application by Section 10-301(b)(3)a.
- (8) Development Services Department Director, whose report shall address:
 - a. Current status and history of compliance or noncompliance of the proposed location with Township Ordinances.
 - b. History of any noncompliance with Township Ordinances by any of the Applicants within the last 10 years.
 - c. Any concern under an Ordinance enforced by the Development Services Department other than the Zoning Ordinance and Construction Code.
 - d. Any opinion on the accuracy of the construction cost estimate.
- (9) Human Resources Director, whose report shall address:
 - a. The patient education plan and drug and alcohol awareness program for provisioning center license applications.
 - b. The jobs and employee compensation and benefits description disclosures.
 - c. The employee training and education description.
 - d. The community outreach/education plans and strategies proposal.
 - e. The charitable plans, commitments, and strategies proposal.
 - f. A comparison of the above aspects of the application to those aspects of other applications for the same type of facility license.
- (10) A Township employee designated by the Supervisor, whose report shall address:
 - a. The documentation of the Named Applicant's interest in the property and any conditions, restrictions, limitations, or encumbrances on that interest.
 - b. The consents, approvals, and support for the proposed facility.
 - c. A comparison of the consents, approvals, and support for the proposed facility to the consents, approvals, and support in other applications for the same type of facility license.
 - d. The information required of Applicants by Section 10-301(b)(3) c – k.

- e. A comparison of the information required by Section 10-301(b)(3) c – k to that information in other applications for the same type of facility license.
- (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. A violation of this prohibition shall be noted in the report that is filed and be grounds for denial of the application.
- (d) Upon receiving the reports required by subsection (b), 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.
- (e) 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, and each of the reports from Township personnel.

Sec. 10-303. Township Board procedure and decision on applications.

- (a) Except for the Clerk regarding incomplete applications, Township Board members are prohibited from any communications with any of the Applicants or persons on behalf of any of the Applicants regarding an application.
- (b) At its first meeting to consider an application for a facility license, the Township Board may:
 - (1) Refer the application and reports and any other applications and reports for the same type of facility license to a committee with no more than three (3) members of the Board for further review, investigation, and/or a recommendation.

- (2) Refer the application and reports and any other applications and reports for the same type of facility license to the Township Attorney for review.
- (3) Request additional information from or ask questions of the Named Applicant regarding the application.
- (4) Postpone consideration of the application and any other applications and reports for the same type of facility license to a future meeting.
- (5) Make a decision on the application.

(c) If the Board is considering multiple applications for the same type of facility license, it shall consider those in the order in which the applications were administratively completed as determined under Section 10-302(a). If as a result of the Board approving an application, there are no remaining authorized licenses for that type of facility under Section 10-298, the remaining applications for that type of license shall be denied for that reason. If the Board's approval of another application was with conditions under subsection (e), the denial of the other applications shall be subject to the approved Named Applicant accepting those conditions in the time and manner required by subsection (h). If the Approved Named Applicant does not do that, the remaining applications shall be placed for Consideration on the Agenda for the next regular Township Board meeting that is at least 10 days after the approved Named Applicant's deadline for acceptance of the conditions.

(d) If any of the following circumstances exist, an application shall be denied without consideration of the license application review criteria in Section 10-304:

- (1) The facility license was not to be applied for and may not be approved or issued because of noncompliance with one (1) or more of the reasons listed in Section 10-299(a).
- (2) Prohibited communication or attempted communication by an Applicant with Township Board members or Township personnel who are to perform reviews of the application.
- (3) The type of facility license applied for is not available as a result of prior Township Board unexpired approvals and/or Township Clerk issuance of all of the authorized licenses for that type of facility under Section 10-298(a).
- (4) The application is not substantively complete with respect to one (1) or more of the application requirements in Section 10-301(b).
- (5) The application contains knowingly false information as documented in a report from Township personnel.
- (6) Any Applicant's conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or conviction of a controlled substance-related felony within the past 10 years.
- (7) If, within the past 5 years, any Applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been

found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

- (8) Any Applicant is a member of the State Board or Township Board.
- (9) Any Applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state.
- (10) 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.

(e) If an application is not denied under subsection (d), 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 10-306, the application review criteria in Section 10-304, 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 facility and its operation submitted as part of the application.

(f) 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 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.

(g) 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.

(h) 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 10-306, 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.

(i) 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 facility 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 facility 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 as required and provided for in Sections 10-298(d) and 10-305(b).
- (7) Satisfaction of any Township Board approval conditions.
- (8) Satisfaction of all license issuance requirements in Section 10-305.
- (9) A current certificate of insurance conforming to Section 10-301(b)(22) and confirming insurance coverage through the end of the term of the license to be issued.

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) Unconditional ownership and possession of property.
 - (2) If not unconditionally owned and possessed, the nature, extent and length of Named Applicant interest in and rights to unconditionally possess, manage, and control property.
 - (3) Written consents or approvals of proposed facility by all persons with interest in property.
 - (4) Use of existing vacant building for facility will be a favorable consideration.
 - (5) Facility in a stand-alone building will be a favorable consideration.
 - (6) Shortness of period of time needed for facility to be ready for use.
 - (7) Accuracy of cost estimate and existence of available funding for construction, operation, and maintenance of facility.
 - (8) If applicable, reduction or elimination of nonconformities with Zoning Ordinance.

(9) Existence of ready-to-file site and building plans for zoning and building code approvals.

(10) Compliance without variances from, and nature and extent to which proposed facility exceeds, minimum Zoning Ordinance, Fire Prevention Code, State Construction Codes, Water and Sewer Ordinance, other Township Ordinance, and other applicable law minimum standards.

(11) Police Chief approval of site, building, and facility operation security and lighting plans from law enforcement perspective.

(12) If there are multiple applicants for the same type of facility license, the comparisons by the Zoning Official, Police Chief, Fire Chief, Building Official, Public Works Official, Human Resources Director, and Township employee designated by the Supervisor under Section 10-302(b).

(13) The manner or nature and extent to which a proposed facility and operations exceed minimum standards under the Act, Rules, or decisions or determinations by the State Board.

(14) Design, construction, operation, supervision, monitoring, and testing that eliminates or otherwise limits and controls all nuisance and public safety concerns with the facility, including regarding odors, hazardous materials, waste disposal, traffic, parking, security, crowd control, and hours.

(15) The skills, experience, and qualifications of the Named Applicant and its personnel to construct, operate, and maintain the proposed facility.

(16) The number of, and wages, benefits and training for, full and part-time employees and extent of any commitment to employ Township residents.

(17) Written consents/approvals of owners and other occupants of building and adjoining properties.

(18) Written support from Township property owners, business owners, and residents.

(19) Charitable or other commitments to benefit groups and programs in the Township.

(20) Nature and length of presence, involvement, or activities in Township of Named Applicant and Applicants.

(21) Length of time and purposes for which the Named Applicant has legally existed, its formation, good standing, and authority to do business in Michigan, and the number and extent to which other persons will be personally responsible for the Named Applicant as a Licensee.

(22) The Named Applicant's and Applicants' past compliance with governmental permits, licenses, franchises, contracts, other approvals, and criminal or civil laws.

(23) The Named Applicant's and Applicants' lack of prior bankruptcies, civil litigation, and unfair labor practices.

(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' final decision under Section 10-303.

Sec. 10-305. Issuance and renewal of licenses.

(a) The Township Clerk shall issue a facility license approved by the Township Board if the documents specified in Section 10-303(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 a facility 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 renewal of a facility 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, and by reference to the original application and documents under Section 10-301(b), or last license renewal application as applicable, a description of any changes in the information. 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 10-306.

(g) A copy of the license shall be posted at all times in the facility at a location that is readily observable upon entering the facility.

Sec. 10-306. 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 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, 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 application.
 - (3) All aspects and elements of the comprehensive facility operation plan submitted with the application.
 - (4) The application commitments regarding patient plans and programs, community outreach/education plans and strategies, and charitable plans, commitments, and strategies.
 - (5) The application commitments regarding the number, compensation, benefits, training, education, and Township residency of employees.
 - (6) Payment of all property taxes, special assessments, water and sewer bills, and other financial obligations to the Township on or before the date they are due.
 - (7) Compliance with the indemnification, defend and hold harmless agreement in Section 10-296(b) and maintaining the insurance specified in Section 10-301(b)(22).
 - (8) None of the application information submitted for the license being determined to have been knowingly false.
 - (9) None of the Applicants being convicted of a felony, or convicted of a misdemeanor or found responsible for a violation of law involving a controlled substance, theft, dishonesty, or fraud.
 - (10) None of the Applicants becoming a member of the State Board, Township Board, holding an elective office of a governmental unit of this state, another state, or the federal government, or becoming a member of or employed by a regulatory body of a governmental unit in this state, another state, the federal government, or governmental unit of this state.
- (b) The facility 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 MMFLA (Medical Marihuana Facilities Licensing Act.)
 - (2) The Tracking Act (Michigan Marihuana Tracking Act.)

- (3) The State license for the facility.
- (4) The MMMA (Michigan Medical Marihuana Act.)
- (5) The Rules (Medical Marihuana Facilities Administrative Rules, R 333.201 et seq.)

(c) All signage and advertising for a facility shall comply with all applicable provisions of the Township Zoning Ordinance. Except for provisioning centers, any exterior signage or advertising identifying the facility as a medical marihuana facility is prohibited. In addition, the following are prohibited:

- (1) Use signage or advertising with the words "weed", "pot", or other slang terms for marihuana, or the words "marihuana", "marijuana," "cannabis" or any other word, phrase, or symbol commonly understood to refer to marihuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols in the signage or advertising.
- (2) Use signage or advertising with a picture or depiction of a marihuana plant or leaf or a symbol that is intended or commonly understood to represent a marihuana plant or leaf that is visible from outside the marihuana facility.
- (3) Use advertising material that is misleading, deceptive, false, or that as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to minors.
- (4) Advertise in a manner that is inconsistent with the medicinal use of medical marihuana or use advertisements that promote medical marihuana for recreational or any use other than for medicinal purposes.

(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."

(e) A separate security system shall be required for each facility, be maintained in good working order to provide 24 hours per day coverage, and include the following components:

- (1) *Cameras.* Security cameras shall be required to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana or cash maintained at the facility, as well as all potential areas of ingress or egress to the facility. Cameras shall record the operations of the facility to an off-site location with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of sixty (60)

days in a secure offsite location in the Township or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the Township and the recordings shall be provided to the Township Police Department, Oakland County Sheriff's Department and Michigan State Police upon request.

- (2) *Use of Safe for Storage.* The facility shall have and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated in or securely attached to the building structure. For medical marihuana-infused products that must be kept refrigerated or frozen, the facility may lock the refrigerated container or freezer in a manner authorized by the Township in place of use of a safe so long as the container is affixed to the building structure.
- (3) *Alarm System.* The facility shall have and use an alarm system that is monitored by a company that is staffed 24 hours a day, 7 days a week. The security plan submitted to the Township shall identify the company monitoring the alarm system, including contact information.
- (4) *Security Guard.* Each facility must be protected 24 hours a day, 7 days a week, by private security guard or private security police personnel covered by a license issued under Public Act 330 of 1968, as amended, that are lawfully armed with a firearm.
- (f) All activities of facilities, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of marihuana and marihuana-infused products shall be conducted inside the approved facility building and out of public view from outside the facility. No medical marihuana or paraphernalia shall be displayed or kept in a facility so as to be visible from the exterior of the building. All marihuana products kept on premises where marihuana plants are cultivated shall be stored in a locked and enclosed space.
- (g) No licensee, person, tenant, occupant, invitee, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors outside of the facility building. Sufficient equipment, ventilation and filtration systems, and other measures and means of preventing and precluding any smoke, odors, debris, dust, fluids and other substances from exiting a facility building must be installed, provided and maintained at all times. If any odors, debris, dust, fluids or other substances exit a facility building, the owner of the subject premises and the licensee shall be in violation of this Ordinance and shall be jointly and severally liable for such conditions and responsible for the immediate and full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
- (h) The use of any lighting for marihuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs), or other fluorescent lighting. All high-intensity discharge (HID) lighting, including, but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, is prohibited. Light cast by fixtures inside any building used

for marihuana cultivation, production or processing shall not be visible outside the building after 7:00 p.m. or sunset (whichever is earlier) or before 7:00 a.m., prevailing time.

- (i) Unless disclosed in the application and approved by the Township Board, there shall be no accessory uses at a facility.
- (j) Each facility and the building in which it is located are subject to the following requirements:
 - (1) All required building, electrical, plumbing and mechanical permits must be obtained before any work is performed and be complied with before any portion of the building is used.
 - (2) Any portion of the building where any chemicals such as herbicides, pesticides, and fertilizers are or will be stored shall be subject to inspection and approval by the Township Fire Department.
 - (3) Waste materials and hazardous waste shall be handled, stored, and disposed of as required by Article III of Chapter 9 of the Township Ordinance Code and other applicable laws, and the operating systems for waste disposal must be maintained in good working order so they do not constitute a source of contamination in areas where medical marihuana is located.
 - (4) The building, including floors, walls, and ceilings, and all fixtures and equipment in the building must be maintained in good repair and a sanitary condition that is free from the entry of pests and rodents.
 - (5) Each facility must have its own adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (k) If there are multiple facilities at a single location, or a facility is located in a building adjacent to other use areas, each of those facilities or the facility must:
 - (1) Have separate operations, ventilation, security, fire suppression systems, water service and meter, building sewer, and access from a public area.
 - (2) Be divided within a building from floor to roof.
 - (3) Unless higher performance is required by applicable laws or codes, have a minimum of a one-hour fire separation wall between facilities or adjacent use areas.
- (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 9:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, and 10:00 a.m. to 4:00 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 two (2) licensed and lawfully armed private security guards or private security police present during business hours, with one stationed indoors and the other stationed outdoors.
- (m) The use, consumption, and possession of alcohol beverages, and the use or consumption of tobacco products, marihuana, and retail marihuana products at a facility is prohibited and marihuana and marihuana-infused products shall not be distributed or provided to any person free of charge.
- (n) Facilities shall not use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marihuana unless the products and process are verified as safe and in compliance with all applicable laws by a written report of a qualified industrial hygienist filed with the application.
- (o) The Township may require a licensee to provide written verification from a qualified industrial hygienist that the manner in which the facility is growing, processing, storing, or handling medical marihuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.
- (p) Licensees shall notify the Township Clerk in writing of any change in the information provided to the Township in the application or to the Township Board within 10 business days of the change. Failure to do so is grounds for suspension or revocation of the license.
- (q) 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 a facility, 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.
- (r) During all business hours and other times when a facility 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.
- (s) Application for a facility license, operation of a facility, and leasing property for use as a facility, constitutes consent by the Named Applicant, licensee, all owners, managers, and employees of the facility, and the owner of the property to the Township conducting routine examinations and inspections of the facility to ensure compliance with this Ordinance and any license applied for or issued.
- (t) By November 1 of each year, the licensee shall file written documentation with the Township Clerk of licensee's compliance with the Township Board approved charitable plans, commitments, and strategies that were included in the license application.

- (u) Compliance with any future State law that imposes additional or stricter requirements or regulations on a facility shall be an additional requirement of any license issued, renewed, or applied for under this Ordinance.

Sec. 10-307. 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 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, and supported by competent, material, and substantial evidence in the record.

Sec. 10-308. 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. 10-309. 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

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 3 of Ordinance

This Ordinance shall be published before and take effect on January 4, 2021.

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 _____, 2020.

CHARTER TOWNSHIP OF WATERFORD

Date

By: _____
Kimberly F. Markee, Township Clerk

Introduced:

Adopted:

Published: