

**Procedures for Accepting Applications and the Competitive Review Process Pursuant to the
Charter Township of Bath Ordinance Authorizing and Permitting Adult-Use Marihuana
Establishments**

The following procedures are hereby adopted by the Bath Charter Township (“Township”) Superintendent, pursuant to her authority to establish procedures and standards for the receipt and review of Applications and to establish procedures and standards establishing the competitive process for the Township to select the Applicant(s) who are best suited to operate in compliance with the Michigan Regulation And Taxation of Marihuana Act (“MRTMA”), as set forth in Section 4(1) and Section 4(2)(a) of the Charter Township of Bath Ordinance Authorizing and Permitting Adult-Use Marihuana Establishments, Ordinance No. 31.69.

All Applications selected for a Permit must comply with all other laws, rules, and ordinances, including the Bath Charter Township Zoning Ordinance.

SECTION 1. APPLICATION PROCESS

1. The Township shall only accept initial Applications at times designated by the Superintendent. The dates, times, and places to accept initial Applications shall be set by the Superintendent as they determine appropriate.
2. The Superintendent shall accept renewal Applications annually. Permits subject to renewal shall not be considered available Permits.
3. The Superintendent shall accept initial Applications for available Permits at least once within thirty-six (36 months) of such Permits becoming available. Initial Applications for available Permits shall be accepted for at least two weeks after the first day set to submit initial Applications to the Superintendent.
4. For available Permits, notice of the day, time, and place shall be given by publication once in a newspaper of general circulation within the Township before the date set to accept the initial Applications. The notice shall include the final date and time that the initial Application acceptance period closes.
5. Initial Applications submitted with the full Application fee shall be considered received only after the close of the Application window.
6. After receipt of the initial Application and the close of the Application window, if the Superintendent identifies or is informed of a deficiency in an initial Application, the Applicant shall have seven (7) days to correct the deficiency after notification by the Superintendent or their agent. Notification shall be provided by the Township Superintendent or their Agent via e-mail at the address provided on the initial Application and the seven (7) days to correct the deficiency will automatically start the day the notification is sent. Competitive Review will only occur after all Applicants who submitted an initial Application in an Application window have been given seven (7) days to correct any deficiency after notification by the Township Superintendent. If a deficient Applicant does not cure their Application’s deficiencies prior to the start of the competitive review, the Township Board shall exclude the deficient Applicant from consideration for a Permit.

SECTION 2. COMPETITIVE REVIEW

1. Evaluation Procedures

If more complete initial Applications are submitted for an Establishment than available Permits (meaning a Permit type that has been allocated more than zero Permits) under the Township's Ordinance Authorizing and Permitting Adult-Use Marihuana Establishments, the Township will decide among competing initial Applications by a competitive review process intended to select Applicant(s) who are best suited to operate in compliance with MRTMA and this Ordinance within the Township. When the Township receives an amount of initial Applications equal to or less than the number of Permits available, the Township Board will apply the competitive review factors when evaluating whether to grant an applicant approval.

a. Competitive Review Process.

- i. The Township Board engaging in the Competitive Review Process does not alter the Township Board having sole discretion as to whether it will elect to issue or not issue Permits, but in no instance shall the Township Board issue more Permits than are available.
- ii. The Township Board will consider each initial Application at a public hearing.
- iii. To evaluate initial Applications, the Township Board Members shall consider each competitive review factor identified in these procedures to determine which Applicant will receive approval. The Township Board shall give each competitive review factor as much weight as they deem appropriate.

b. Determination to Award Permits.

- i. The Township Board, in its sole discretion, may elect to issue or not issue conditional approval, but in no instance shall issue more conditional approvals or Permits than are available.
- ii. If, after a competitive review, there are more qualified Applicants than there are available Permits for a specific type of Marihuana Establishment, the Township Board may award a conditional approval to the Applicant(s) selected from applying the competitive review factors. Provided, even after conducting a competitive review the Township Board may elect to not issue any conditional approvals.
- iii. In no instance will the Township Board award approval to two different Applicants that would cause a Marihuana Establishment or Commercial Medical Marihuana Facility to be located within five-hundred (500) feet from any other Marihuana Establishment or Commercial Marihuana Facility, unless the Marihuana Establishments or Commercial Medical Marihuana Facilities are owned and operated by the same Permit Holder, are co-located on the same parcel, and comply with state and local law.
- iv. If the Competitive Review Process generates two or more qualified Applicant(s) the Township wishes to issue Permits to, but approving all of these Applicants would cause a violation of the spacing requirements, then the Applicant that performed highest amongst selected Applicants in competitive review will be granted conditional approval and allowed to advance to seek final special use permit approval for the Permitted Property they proposed in their initial Application. The lower performing selected Applicant(s) may be granted conditional approval subject to certain conditions:

- (1) The conditional approval is only valid for 365 days and is non-renewable;

- (2) The Applicant may not seek final special use permit approval for their initial Application's proposed Permitted Property, but may do so for an alternative proposed Permitted Property; and
- (3) The Applicant will be under an obligation to submit amended Application materials and special use permit materials for the new proposed Permitted Property.

2. Competitive Review Factors

Competitive Review Factors to be evaluated and applied in reviewing Applicants consists of:

- 1) The thoroughness of the initial Application, with the Applicant detailing how the Applicant intends to comply with all requirements established in this Ordinance, or any other regulation established by the Township or State of Michigan regarding recreational marihuana. To determine the thoroughness of an initial Application, Township Board Members should consider factors such as, but not limited to, the number and the type of deficiencies in an Applicant's initial Application, the amount of an initial Application that is contingent on other factors (e.g., has the Applicant identified **all** other businesses that will be directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Establishment), and the level of detail the Applicant provides for material required within the initial Application.
- 2) Whether the Applicant, owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant ("Identified Party") currently holds a state or local license or permit pursuant to the MMFLA, MRTMA, or another state's marihuana regulatory framework ("Other Marihuana Permit") and the Applicant's past history of regulatory compliance for their other marihuana business. A Township Board member may consider factors such as, but not limited to:
 - a. Whether any Identified Party has ever had any Marihuana License or Permit restricted, suspended, revoked, or not renewed;
 - b. Evidence the Applicant voluntarily proffers about the Identified Parties securing timely renewal of any Other Marihuana License or Permit; and
 - c. The Applicant's or Identified Parties' experience operating pursuant to any other Marihuana License or Permit. Factors to be considered include the nature and scope of the operation and how long the Applicant or Identified Parties have been operating under the other Marihuana License or Permit.

In evaluating this factor Board members should consider the Applicants' or their Identified Parties' negative or adverse operating history. For example, if any Identified Party has ever had any other Marihuana License or Permit restricted, suspended, revoked, or not renewed.

- 3) The Applicant or its Identified Parties history of promptly paying taxes or special assessments due to a municipal government. The Township Board should consider an Applicant or its Identified Parties history of prompt payment in Bath Charter Township and any other material submitted that supports a history of prompt payment in another municipality (e.g., a signed statement of a Township Treasurer confirming an Identified Parties history of timely tax payments). More weight should be given when an Applicant or their Identified Parties' have a longer history of promptly

paying their local taxes and special assessments. The Township Board should factor in whether an Applicant or Identified Party presently owes past due taxes or special assessments to a municipality.

- 4) Whether the Applicant has a history of non-compliance with the Township's ordinances or with other local, state, or federal laws. In assessing criminal background, Township Board Members should only consider charges for which an Applicant has been convicted, found responsible, or admitted that are detrimental to the public health, safety, welfare, or security of the public. Board Members may consider factors including but not limited to: the contents of the criminal background checks received by the Township in connection with the initial Application; the date of the most recent conviction; the nature of the offense; and, disclosed criminal background. In assessing this factor Township Board members should consider the nature and severity of the conviction and how recently the conviction occurred, provided that Township Board Members shall not consider for any purpose an Applicant's prior conviction solely for a marihuana-related offense so long as the offense did not involve distribution of a controlled substance to a minor.
- 5) Whether the Applicant has already applied for or received a Permit to operate a Commercial Medical Marihuana Facility within the Township.
- 6) The Applicant's demonstrated preparedness to provide appropriate employee training on safety procedures, employee guidelines, security protocol, marihuana product information, dosage, and purchasing limits if applicable. Items to be considered for this factor include, but are not limited to the Applicant's written description of the training and education that the Applicant will provide to all employees; what materials the Applicant has prepared for training its employees; the Applicant's plan for providing continuing education to its employees to keep them informed of changes in applicable law and regulation; and the written description of the method(s) for record retention of all training provided to existing and former employees.
- 7) The Applicant's experience using inventory tracking systems, including seed to sale systems, as well as any recordkeeping experience. Relevant factors to be considered by Township Board Members include but are not limited to: years of experience operating a tracking system; types of tracking systems operated; and whether the Applicant has past experience with the State of Michigan's seed to sale tracking system.
- 8) The sufficiency of the safeguards employed by Applicants in the handling of marihuana, chemicals, and nutrients. Relevant factors to be considered by Township Board Members include but are not limited to:
 - a. How the Applicant will control access to marihuana, chemicals, and nutrients within the Establishment;
 - b. Methods the Applicant will take to store and clearly label all chemicals and nutrients to reduce probability of chemicals and nutrients being used in an unsafe manner; and whether the Applicant will have a designated schedule for use of such chemicals and nutrients.
 - c. The Applicant's sanitation plan to protect against any marihuana, chemical, or nutrient being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal.

- 9) Sufficiency of the Applicant's odor abatement strategy. Elements to be considered for this factor will include whether the Applicant will have a newly constructed building, systems, technologies, or efforts to contain odor in an existing building, the age of the HVAC system to be used at the Marihuana Establishment, the capacity rating of the odor control technology the Applicant will use in their Marihuana Establishment, and where the proposed Marihuana Establishment will be located within a building sharing a common HVAC system or walls with other businesses.

Poorly qualified Applicants on this factor are those that do not show a particularized response to the needs of their proposed Marihuana Establishment.

- 10) Sufficiency of the Applicant's security plan. Elements to be considered for this factor will include the type and location of security cameras; the security value of interior and exterior lighting; whether the establishment will use a safe or vault secured on the premises; whether the establishment will be the only business on the property and able to control all customers, visitors, and traffic to the property; and the establishment's ability and commitment to preventing loitering and littering.

- 11) Whether the Applicant or Identified Party has business experience and demonstrates that the Applicant has sufficient business experience to operate the proposed marihuana business.

SECTION 3. APPEAL

Applicants may appeal the Township Board's conditional approval of Applications as outlined in the Ordinance.