



City of Westland

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CITY OF WESTLAND

MARIJUANA BUSINESS APPLICATION CONSIDERATION POLICY

APPROVED BY THE WESTLAND CITY COUNCIL

ON MAY 18, 2020

Pursuant to the Westland Uniform Marijuana Business Ordinance (“Ordinance”), Section 27-1 – 27-34, of the Westland City Code, upon recommendation by the City Administration and approval of the Westland City Council, the City of Westland hereby adopts this policy on this 18TH day of May, 2020, to carry out certain sections of the Ordinance pertaining to the consideration of applications, amended applications, and renewal applications.

ARTICLE I – GENERAL MATTERS

1.1. Terms used herein correspond to the Westland Uniform Marijuana Business Ordinance.

1.2. Applicants must complete the application attached hereto as **Exhibit A** (an “Application”) in order to be considered for a City License.

1.3. Only one Applicant may be listed on each Application. Only one Applicant is eligible for a License or Licenses at a Business Location.

1.4. Applications must include a fee of \$5,000 per requested License to help the City defray the administrative and enforcement costs associated with the operation of Marijuana Businesses within the City. Each stacked license and any excess grower license shall require the payment of a separate \$5,000 fee. Except as provided in Article X of this Policy, all fees are nonrefundable.

1.5. Application fees are in addition to fees for special land use approval, site plan review, certificates of occupancy, any inspections, and all other fees of general applicability.

1.6. If any Applicant is disqualified from consideration for any reason, the Applicant may be eligible to reapply when and if the City accepts new Applications at a later time.

1.7. If an Applicant is disqualified, the Selection Committee, as defined in Section 1.11 of this Policy, shall notify the Applicant in writing of the fact of disqualification and the general reason for disqualification. The decision of the Selection Committee is final and not subject to appeal.

1.8. Applicants may respond to questions on the Application by reference to an attachment, provided that the attachment is accompanied by a concise explanation of how the attachment is responsive to the question.

1.9. All attachments should be organized in numerical order and placed at the end of the Application.

1.10. Any attachment to an application should be marked and tabbed as an attachment to the particular question.

1.10.1. For example, Question 4-2 of the Application requires that an Applicant provide proof of prequalification. Such proof should be attached and tabbed as Attachment 4-2. Applicants must follow this format for all Application questions to which an attachment applies.

1.11. Pursuant to Section 27-12 of the Ordinance, a Selection Committee is created, which shall be comprised of three city administrative employees appointed by the Mayor. The Selection Committee shall administratively sort, review, and score applications and have other duties contained in this Policy. The Selection Committee may select one or more designees to carry out its duties, and reference in this Policy to the Selection Committee shall be interpreted to mean "the Selection Committee or its designee(s)". The Selection Committee is an administrative subcommittee not subject to MCL 15.261, et seq., and shall not make a final decision regarding awarding Licenses.

ARTICLE II – LIMITED WINDOW FOR APPLICATIONS

2.1. The City shall begin accepting applications on June 1, 2020. Applications will be accepted for 45 calendar days, ending on July 16, 2020.

2.2. The City Clerk will accept Applications and the required fees in person beginning at 10:00am on the start date and ending on 4:00pm on the closing date. Any Applicant who is standing in line at 4:00pm on the closing date will be considered timely. The City Clerk will deliver all Applications and fees to the Selection Committee.

2.3. All Applications submitted during the time frame in Section 2.1 and 2.2 will be considered together, and each will be assigned a number for administrative purposes.

2.4. Applications that are submitted without a fee will be immediately rejected, and the Applicant will be disqualified by the Selection Committee.

2.5. Application fees must be paid by cashier's check or certified check, payable to the City of Westland.

2.6. The City may administratively develop procedures for accepting applications and fees electronically. Recognizing the novelty of this process and challenges presented by local and global affairs, flexibility will be necessary for the city to administratively interpret this Policy and implement changes, which the City Council hereby provides.

2.7. The City will not accept any Application outside of the above time period until the next application period, if any.

2.8. The Applicant has a continuing duty to amend its Application any time there is a change in any information the Applicant was required to provide to the City or the State of Michigan's Marijuana Regulatory Agency ("Agency") in the most recent Application on file with the City or the Agency, as applicable.

2.9. Each Amended application shall require a fee of \$25.00. However, there shall be no fee charged to the Applicant for responding to a request from the City for supplemental information in connection with an Application, Amendment, or Renewal already on file with the City for which the Application or Amendment fees have already been paid.

2.10. Amended Applications (“Amendments”) shall follow the procedures in Article VIII of this policy.

2.11. Applications for renewal (“Renewals”) shall follow the procedures in Article IX of this policy.

ARTICLE III – PREREVIEW CRITERIA

3.1. The Selection Committee shall conduct a prereview of all Applications, and any incomplete Applications will be separated from those that are complete. Incomplete Applications will be disqualified from consideration.

3.2. An Application is deemed incomplete if any requested information or attachment is not included; if the Application is not submitted in the proper format, as required by the Application, the Ordinance, or this Policy; or for any other reason allowable by state or local marijuana laws.

3.3. Applicants must submit a copy of any Application filed with the Agency (Step 1 and Step 2 applications, as applicable) that relates to the Applicant’s Westland Application.

3.4. Applications must contain proof of prequalification, as defined in the Ordinance.

3.5. The Selection Committee shall separate Applications for Business Locations into the following categories:

3.5.1. Collocated Businesses;

3.5.2. Marijuana microbusinesses;

3.5.3. Safety compliance facilities, which shall be further sorted by proposed zoning district (industrial and commercial/office);

3.5.4. Secure transporters; and

3.5.5. Retailers/provisioning centers, which shall be further sorted based on their location in relation to Ford Road.

3.6. If an Applicant applies for a License that the Agency will not issue due to the provisions of MCL 333.27959, then the Application will be disqualified and will not be considered.

3.7. The Selection Committee will then competitively review and score Applications as indicated below.

ARTICLE IV – SELECTION COMMITTEE PROCEDURES

4.1 The Selection Committee shall administratively consider Applications and assign point values based on the Scoring Rubric, attached as **Exhibit B** to this Policy. Applications shall be scored individually, and all Applications in the same category, as identified in Section 3.5 of this Policy, will be ranked in order of score. In considering Applications, the Selection Committee may request review by and input of any pertinent City department. Applications for commercial and office zoning districts shall be reviewed by the Planning Department for compliance with Article V of the Ordinance.

4.2 As used in the Scoring Rubric, whether a location is *Blighted* shall be determined by the Selection Committee based on the factors in Section 22-458 of the Westland City Code.

4.3 The Selection Committee may send written notice to an Applicant requesting any additional information needed by the Committee to consider the Application.

4.4 Notice shall specify a date by which the Applicant must respond with supplemental information or be disqualified.

4.5 For good cause shown, as determined by the Selection Committee, the Applicant may request an extension of the response time. However, the request for an extension must be received by the Selection Committee prior to the expiration of the response period.

4.6 The Selection Committee may, but need not, interview Applicants.

4.7 *Reserved.*

4.8 If any two or more Applicants within the same category are tied, they shall be ranked against other tied Applicants within their category according to 4.9-4.13.

4.9 Applicants in the same category whose overall scores are tied shall be ranked in order of their scores in section two (2) of the Scoring Rubric, titled "Financial Investment."

4.10 If the above section of this Policy results in a tie among Applicants in the same category, then the tied Applicants shall be ranked in order of their scores in section three (3) of the Scoring Rubric, titled "Community Benefit and Investment."

4.11 Any Applicants that remain tied after Sections 4.9 to 4.10 are applied shall proceed to a blind lottery draw to determine ranking. Affected Applicants shall be notified of the lottery draw at least 5 business days before the draw. Applicants may be present during the lottery draw.

4.12 The lottery procedure shall be as follows for each category in which a tie exists: Applicant names shall be printed on separate slips of rectangular paper of the same size. The slips shall be at or near 3" x 5" in size. The paper slips shall not be folded, and all slips shall be placed into a covered box or receptacle of sufficient size to allow a mixing or randomness to the selection of the Applicant names. The paper slips shall be withdrawn one piece at a time from the box by a member of the Selection Committee. The order in which the names of the Applicants are drawn shall be recorded. The first name drawn shall be the most highly ranked Applicant among those tied in a category and so on until all Applicants' names are drawn.

4.13 The Selection Committee shall repeat this process until all ties within the categories are resolved.

4.14 If any proposed Business Location conflicts with the proposed Business Location of any other Applicant, as determined by reference to Article V of the Ordinance, regardless of category, then the Applicant with the higher overall score shall proceed, and the Applicant with the lower overall score shall be disqualified. If any tie results from this section, then it shall be resolved as discussed in 4.9-4.13.

ARTICLE V – CERTIFICATION AND REVIEW OF SCORE

5.1. As soon as practical, the Selection Committee shall compile a list of Applicants and their scores. The list shall rank Applicants in order from highest to lowest score per category.

5.2. The Selection Committee shall send the list to the City Council and to each Applicant. The City Council shall certify the list no sooner than 60 calendar days after receipt.

5.3. Each Applicant shall also be notified of its right to appeal its score and the date, time, and method for the filing of appeals. The deadline to file an appeal shall be at least 10 business days from the date notice was sent. An Applicant who does not file a timely appeal waives the right to an appeal.

5.4. A written appeal is limited to a maximum of 10 pages of size 12 Times New Roman or similar sized font. The appeal is limited to the documents possessed by the Selection Committee pertaining to the appellant at the time that the Selection Committee issued its recommendation.

5.5. The Marijuana Business Review Board (the “Board”) will consider an Applicant’s written appeal at a public hearing. The Board may have a representative from any pertinent City department present at the hearing.

5.6. The Applicant will be provided an opportunity to advocate its appeal orally for no longer than 10 minutes. The Selection Committee may file a written response and shall also be afforded an opportunity to respond orally, subject to the same format and time limitations. In addition, any member of the public may comment for a maximum of 3 minutes.

5.7. After hearing all appeals, the Board shall issue a written recommendation that either upholds the list or modifies the list in whole or in part. Any resulting tie shall be resolved by the Selection Committee pursuant to Sections 4.9-4.13 of this Policy. The City Administration shall forward the Board's written recommendation and reasoning to the City Council to be placed on an agenda of a regular or special meeting.

5.8. The City Council shall consider and certify the list with adjustments, if any, as the Council determines. The decision of the City Council shall be final. The City Administration shall be responsible to implement the Council's decision.

ARTICLE VI- CONDITIONAL LICENSE

6.1. Only the most highly ranked Applicants will be considered in each category, as determined by the total number of Business Locations allowed under Section 27-6 of the Ordinance.

6.2. According to Section 27-6a of the Ordinance, the City will not maintain a waiting list; Applicants who are not the most highly ranked in their respective categories at this phase will no longer be considered for a City License, but they may reapply if and when the City opens another Application window.

6.3. The most highly ranked Applicant or Applicants of each category of Business Location, as determined under Section 6.1 of this Policy, may be offered a conditional License in writing, which shall be subject to any terms and conditions approved by City Council in addition to the terms of the Application, Section 27-10 of the Ordinance, and this Policy.

6.4. The Applicant must notify the Planning Director in writing if it will accept the conditional License and accompanying terms and conditions. The Applicant's written acceptance must be received within 10 business days from the date notice was sent by the City.

6.5. If an acceptance is not received by the Planning Director within the 10-day period, then the Applicant will be considered to have voluntarily withdrawn its application, and the conditional License will not issue, and the Application will not be considered any further. Any opening created by this Section of the Policy will be handled under Section 27-6a of the Ordinance.

6.6. The Applicants who accept conditional Licenses shall be deemed "Conditional Licensees", and the Planning Director shall publish a list setting forth each Conditional Licensee's name, the address of the proposed Business Location, and the types of Licenses proposed to be operated at the location.

6.7. During the conditional period, the Conditional Licensee must file an Amendment to include any information required by the Ordinance that has not already been submitted. This may include information such as a security plan, odor control plan, and sample signage.

6.8. In order to obtain a city License at the end of the conditional period, as may be extended, the Conditional Licensee must be in compliance with all terms and conditions.

ARTICLE VII – SUBSEQUENT APPLICATION PERIODS

7.1. If the initial Application process results in a lesser number of licensed Business Locations than the maximum number that the City may issue, then the City may reopen the process for additional Applications on any terms and conditions.

7.2. If reopened, the process for subsequent Applications shall conform to this Policy, as may be amended from time to time.

ARTICLE VIII – AMENDED APPLICATIONS

8.1. An Applicant or Licensee must amend an application (an “Amendment”) any time there is a change in any information the Applicant or Licensee was required to provide to the City or the State of Michigan’s Marijuana Regulatory Agency in the most recent Application on file with the City or the Agency, as applicable.

8.2. The City may administratively promulgate a separate form Application for the Amendment of Applications, Licenses, and/or conditional Licenses.

8.3. Amendments must be submitted in writing to the City Clerk with the appropriate fee. The City Clerk shall deliver the Amendment and fee to the Selection Committee.

8.4. There shall be no fee if an Amendment is submitted in response to a request from the Selection Committee for additional information in connection with an Application, Amendment, or Renewal on file with the City for which the required fee has already been paid. In these instances, the Amendment shall be submitted directly to the Selection Committee.

8.5. No changes contemplated in an Amendment to a License or conditional License may take effect until approved as provided in this Policy.

8.6. Amendments shall be considered by the Selection Committee. Based on the requirements of this Policy, the Ordinance, and review and comment from pertinent City departments, the Selection Committee shall recommend the approval or denial of the Amendment. The Committee shall notify the Applicant or Licensee of its recommendation in writing and the date, time, and method for the filing of appeals. The deadline to file an appeal shall be at least 10 business days from the date notice was sent. An Applicant or Licensee who does not file a timely appeal waives the right to an appeal.

8.7. The appeal shall follow the same procedures as set forth in Article V of this Policy.

8.8. Within 10 business days after hearing the appeal, the Board shall issue a written recommendation that either upholds or modifies the recommendation of the Selection Committee. The Board shall forward its written recommendation and reasoning to the City Administration to be placed on an agenda of a regular or special meeting of the City Council.

8.9. The City Council shall consider the recommendations and reasoning of the Board. The City Council may approve the Amendment with terms and conditions or may deny the Amendment. The decision of the City Council shall be final.

8.10. The Applicant or Licensee must indicate its acceptance of the Amendment and any conditions of such Amendment in writing to the Planning Director within 10 business days of the City Council's approval.

8.11. If the Applicant or Licensee does not respond within the 10-day period, or does not accept, then the Amendment will be considered voluntarily withdrawn, in which case the Amendment will not be considered any further. However, a Licensee or conditional Licensee may continue to operate as provided in Section 27-13(b)(3) of the Ordinance.

8.12. The Applicant or Licensee may submit a new Amendment and appropriate fee at a later time.

ARTICLE IX – RENEWAL APPLICATIONS

9.1. Unless otherwise provided in any conditions to a License, Licenses are valid for a period of one year from the date they are issued by the City Council.

9.2. Notwithstanding Section 9.1, a License will not be valid for any period during which the corresponding state marijuana business license issued by the Marijuana Regulatory Agency for the Business Location is suspended, revoked, expired, or otherwise invalid.

9.3. Applications for the renewal of a License or conditional License (a "Renewal") must be submitted as provided in the Ordinance.

9.4. The City may administratively promulgate a separate form Application for the renewal of Licenses and conditional Licenses.

9.5. Renewals must include a nonrefundable fee of \$5,000 per License to help the City defray the administrative and enforcement costs associated with the operation of Marijuana Businesses within the City.

9.6. Renewals shall be considered and approved or denied in the same manner as Amendments under Article VIII of this Policy.

ARTICLE X – PARTIAL REFUNDS OF FEES

10.1. This Article of the Policy is controlling for matters concerning the refundability of Application fees and shall have no effect on any other fees.

10.2. Fees for Amended and Renewal Applications are not refundable.

10.3. An Applicant who is disqualified within 30 calendar days from the date that the Application window closes shall receive a refund of \$2,500.

10.4. An Applicant who is disqualified after the 30-day period may be entitled to a refund of up to \$1,000 upon good cause shown, as determined by the Marijuana Business Review Board.

10.5. The Marijuana Business Review Board may establish rules and procedures for processing requests for refunds.

ARTICLE XI - RESERVED RIGHTS

11.1. The City of Westland reserves all rights to amend, revise, or revoke this policy at any time for any reason in its sole discretion.

11.2. Applications, Amendments, and Renewals are subject to the rules then in place at the time of submission of that Application, Amendment, or Renewal, including in the event of a change in policy at a later date.