

**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET
BYLAW NO. 057-2017**

Being a bylaw to licence Medical Marihuana
Facilities in the Township of Wainfleet.

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25 (the "*Municipal Act*") provides a municipality with broad authority to pass bylaws necessary or desirable for municipal purposes;

AND WHEREAS section 11 of the *Municipal Act* provides that a lower-tier municipality may pass bylaws respecting the health, safety and well-being of persons and the protection of persons and property;

AND WHEREAS section 151 of the *Municipal Act* provides that without limiting sections 9, 10 and 11 of the Act, a municipality may provide for a system of licenses with respect to a business;

AND WHEREAS the Council for the Corporation of the Township of Wainfleet considers it necessary and desirable to license medical marihuana facilities;

AND WHEREAS section 128 of the *Municipal Act* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS subsection 391(1) of the *Municipal Act* provides that a municipality may impose fees and charges on persons;

AND WHEREAS section 436 of the *Municipal Act* provides that a municipality may pass a bylaw providing that the municipality may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine whether a bylaw of the municipality has been complied with;

AND WHEREAS section 444 of the *Municipal Act* provides that the municipality may make an order requiring the person who contravened the bylaw or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet **HEREBY ENACTS AS FOLLOWS:**

DEFINITIONS

1. For the purpose of this bylaw:

"Additional Fee" means a fee, in addition to the license fee, imposed by the Township on a Licensee at any time during the term of the Licence for costs incurred by the Township attributable to the activities of the Medical Marihuana Facility;

"Appeal Tribunal" means the tribunal duly appointed by Council to conduct hearings under this bylaw;

"Applicant" means a Person applying for a new Licence or the renewal of a Licence under this bylaw;

"Clerk" means the Clerk of the Township;

"Council" means the Council of the Township;

"Fees and Charges Bylaw" means the applicable Fees and Charges Bylaw as enacted by the Township from time to time;

“Fire Chief” means the Chief of the Township’s Fire & Protective Services Department or his/her designate;

“General Inspection Report” means a confirmation documents issued by the Electrical Safety Authority to an Applicant that there are no electrical defects identified in the Premises or that all electrical defects have been corrected;

“Licence” means the certificate issued by the Licence Manager under this bylaw;

“Licensee” means any Person licensed under this bylaw;

“Licence Manager” means the Township’s Manager of Protective Services or his/her designate;

“Marihuana” means the substance referred to as “Cannabis (marihuana)” in the *Controlled Drugs and Substances Act*, S.C. 1996, c.19;

“Medical Marihuana Facility” means a facility that is licensed under the Access to Cannabis for Medical Purposes Regulations, or a successor thereto, for the growing of medical Marihuana as well as for the processing, testing, packaging, distribution and destruction of medical Marihuana;

“Notice of Additional Fee” means a written notice from the License Manager to a Licensee advising them of their requirement to pay an Additional Fee;

“Nuisance” means any activity or action which disturbs or is likely to disturb any individual;

“Officer” means a duly appointed Municipal Law Enforcement Officer by Council and includes members of the Niagara Regional Police Service;

“Person” includes an individual, a corporation and its directors and officers, or partnership and their heirs, executors, assignees and administrators;

“Premises” includes lands or buildings or similar structures where a Medical Marihuana Facility is located;

“Township” means the Corporation of the Township of Wainfleet;

“Zoning Certificate” means a certificate duly issued by the Township approving the use for which the Licence application has been made on the property where the business is located, in accordance with the Township’s Zoning Bylaw 034-2014, as amended, or a successor thereto.

ADMINISTRATION OF THIS BYLAW

2. The administration of this Bylaw is assigned to the Licence Manager who shall perform all of the administrative functions conferred upon him or her by this bylaw.
3. The Licence Manager may delegate any responsibilities conferred to the Licence Manager under this bylaw.

APPLICATION FOR A NEW LICENCE

4. An application for a new Licence shall be made to the Licence Manager using the forms provided by the Licence Manager.
5. Every application for a new Licence shall be accompanied by:
 - a. The fee as set out in the Township’s Fees and Charges Bylaw;

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- b. A Zoning Certificate indicating that the use for which the application has been made is an approved use for Medical Marihuana Facility;
 - c. A copy of a licence to produce Marihuana issued by Health Canada to the Applicant as required according to the *Access to Cannabis for Medical Purposes Regulations SOR/2016-230*;
 - d. If applicable, proof of an approved building permit by the Township;
 - e. A letter from the Fire Chief which states that an inspection has been conducted of the Premises and confirms that the Premises is in compliance with all the provisions of the *Fire Protection and Prevention Act, S.O. 1997* and the *Ontario Fire Code*. This letter must be dated within ninety (90) days from the date when the application for the Licence is submitted to the Township;
 - f. A General Inspection Report issued by the Electrical Safety Authority which certifies that an inspection has been conducted on the Premises and confirms that there are no visible fire, shock or electrical safety hazards and the Premises is in compliance with the requirements of the *Ontario Electrical Safety Code*. The General Inspection Report must be dated within ninety (90) days from the date when the application for the Licence is submitted to the Township;
 - g. If the Applicant is a corporation, a copy of the incorporating document and a copy of the last annual return filed;
 - h. If the Applicant is a registered partnership, a copy of the registered declaration of partnership and a copy of the business name registration;
 - i. Proof of insurance which the Applicant shall take out and keep in full force and effect throughout the term of the Licence and any renewals thereof which shall include general liability insurance with respect to the Medical Marihuana Facility against claims for personal injury, death or property damage or loss, indemnifying and protecting the Applicant, their respective employees, servants, agents, contractors, invitees or licensees, to the inclusive limit of not less than Two Million (\$2,000,000.00) Dollars on a per occurrence basis;
 - j. A Police Criminal Record and Judicial Matters Check for the Applicant completed by the Niagara Regional Police Service; and
 - k. Any other documentation or information as may be required by the Licence Manager to assess the application.
6. There shall be a separate application for each Premise to be used or Person to be licensed.

APPLICATION FOR A RENEWAL LICENCE

7. An application for a renewal Licence shall be made to the Licence Manager using the forms provided by the Licence Manager.
8. Every application for a renewal Licence shall be accompanied by:
 - a. The fee as set out in the Township's Fees and Charges Bylaw;
 - b. Confirmation that the licence as described in subsection 5(c) of this Bylaw continues to be valid and has not been revoked or suspended; and
 - c. Any other documentation or information as may be required by the Licence Manager to assess the renewal application.
9. When an application for a renewal of a Licence is received by the Licence Manager more than one year after the expiry date of the Licence, the application will be processed as a new application.

INSPECTION

10. By submitting an application for a Licence or the renewal of a Licence, the Applicant or Licensee consents to an inspection by an Officer who may at any reasonable time enter upon the Premises to make an inspection to ensure that all the provisions of this Bylaw have been satisfied in order to issue or renew a Licence.
11. An Officer may at any reasonable time, during the term of the Licence, enter upon and inspect the Premises of the Licensee to ensure that the provisions of this Bylaw are complied with.
12. Upon an inspection, every person shall produce all relevant Licences and permits, invoices, vouchers or like documents and all documents required to be kept and maintained under this Bylaw which may be removed by an Officer for the purpose of photocopying and returned within forty-eight (48) hours of removal.
13. No person shall obstruct an Officer inspecting the Premises or withhold, destroy, conceal or refuse to furnish any information or thing required by an Officer for the purpose of the inspection.

REVIEW OF APPLICATION FOR A LICENCE BY THE LICENCE MANAGER

14. The Licence Manager shall receive, process and review all applications for all new Licences and renewals of Licences under this Bylaw.
15. The Licence Manager shall have the power and authority to:
 - a. Issue a new or renew a Licence;
 - b. Revoke a Licence;
 - c. Suspend a Licence; and
 - d. Impose terms or conditions on a Licence.

ISSUANCE OF A LICENCE

16. When an application for a new Licence or renewal of a Licence is made in accordance with section 5 or 7 respectively and the Applicant meets all the requirements of this Bylaw, the Licence Manager shall issue or renew the Licence within 20 days of the date of application.
17. The Licence Manager shall keep a licence register in which shall be recorded the full operating name and address of each Licensee, the address of the Premise in which the Licensee carries on, conducts, operates, maintains, keeps, or engages in the business, trade, occupation for which the Licence was issued, the number of the Licence, the date of issue, the amount of the Licence fee paid, the date of expiry of the Licence, the type of Licence issued, and any other particulars or observations pertaining to the same which are useful or necessary.
18. The Licence Manager shall notify the Niagara Regional Police Service when a Licence is issued. The notification shall include the full operating name and address of the Licensee, the address of the licensed Premise, the number of the Licence, the date of issue and the date of expiry of the Licence.
19. Notwithstanding section 16 of this Bylaw, a Licence Manager may refuse to issue or renew a Licence or may suspend a Licence on any of the grounds listed in section 24 of this Bylaw.
20. Notwithstanding any other provisions of this Bylaw, a Licence Manager may impose terms and conditions on any Licence at issuance, renewal or any time during the Licence period including but not limited to:
 - a. Conditions restricting the hours of business;

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- b. Conditions, as a requirement for continuing to hold a Licence at any time during the term of the Licence; and
 - c. Special conditions that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a Licence.
21. Notwithstanding any other provisions of this Bylaw, the Licence Manager may impose Additional Fees on a Licensee, by way of Notice of Additional Fees, at any time during the term of a Licence for costs incurred by the Township attributable to the activities of the Licensee.
- a. The Notice of Additional Fees shall be sent to the Licensee by registered mail and shall provide the Licensee with sixty (60) days to pay the outstanding amount from the date of such notice.
22. All Licences issued pursuant to this Bylaw shall expire on September 30 of each calendar year.

RETURN OF THE LICENCE

23. When a Licence has been revoked, has not been renewed or has been suspended according to section 27 of this Bylaw, the holder of the Licence shall return the Licence to the Licence Manager within seventy-two (72) hours of service of written notice of the decision of the Licence Manager.
24. The Licence Manager or Officer may enter upon the Premises of the Licensee for the purpose of receiving or removing the said Licence, when a Licensee has his/her Licence revoked, not renewed or suspended under this Bylaw.
25. The Licensee shall notify the Licence Manager of any change in ownership of the Medical Marihuana Facility and shall surrender his, her or its Licence to the Licence Manager within seventy-two (72) hours of the completion of such change.

DUPLICATE LICENSES

26. In the event that a Licence issued under this bylaw is lost or destroyed, the Licence Manager upon satisfactory proof of such loss or destruction, and upon payment of a replacement fee, the Licence Manager shall issue a duplicate of the original Licence, upon which shall be stamped or marked the word "DUPLICATE".

CHANGE OF NAME

27. Where ownership of a business is not changed or affected but the operating name of a business changes, the Licensee shall immediately notify the Licence Manager and upon payment of an amendment fee and being satisfied that there have been no other changes in the circumstances of the Licence, the Licence Manager may issue a replacement of the original Licence. The Licensee shall return and surrender the original License in order to affect such a change.

GROUND FOR REFUSAL TO ISSUE/RENEW, REVOKE OR SUSPEND A LICENCE

28. A Licence Manager may refuse to issue/renew, revoke, or suspend a Licence where there are reasonable grounds to believe that:
- a. An application or other document provided to the Licence Manager by or on behalf of the Applicant contains a false statement or false information; or
 - b. The Applicant or Licensee has failed to pay any fine imposed by a court as a sentence arising from convictions for breach of a Bylaw enacted by the Township; or
 - c. Any Additional Fees imposed on a Licensee as set out in section 21 remains unpaid after the due date as indicated in the Notice of Additional Fees sent to the Licensee; or

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- d. The Applicant or Licensee does not meet any or all of the requirements of:
 - i. This Bylaw or any other Township Bylaw, including Zoning Bylaw 034-2014, as amended; or
 - ii. The Building Code Act, Fire Protection and Prevention Act, and the Regulations of both legislations; or
 - iii. The Ontario Electrical Safety Code; or
 - iv. Any other federal or provincial laws and municipal bylaws.
 - e. The financial position of the Applicant or Licensee affords reasonable grounds to believe that the Applicant or Licensee would not operate the Medical Marihuana Facility in a financially responsible manner; or
 - f. The past or present conduct of the Applicant or Licensee, or any partner, in the case of an Applicant or Licensee which is a partnership, or of any director or officer of the corporation, if the Applicant or Licensee is a corporation, affords reasonable grounds for the belief that the Applicant or Licensee will not carry on the activity for which they are to be licensed or to continue to be licensed in accordance with any applicable law and with integrity and honesty; or
 - g. The Applicant or Licensee no longer meets the insurance requirements as set out in Section 5(i) of this Bylaw; or
 - h. The Applicant or Licensee has past breaches of this bylaw; or
 - i. The Applicant or Licensee has been convicted of a crime under the Criminal Code of Canada.
29. After a decision is made by the Licence Manager to refuse to issue/renew, revoke or suspend a Licence, written notice of that decision shall be given to the Applicant or Licensee advising the Applicant or Licensee of the Licence Manager's decision with respect to the application or Licence.
30. The written notice to be given according to section 29 shall:
- a. Set out the grounds for the decision;
 - b. Give reasonable particulars of the grounds;
 - c. Be signed by the Licence Manager; and
 - d. State that the Applicant or Licensee is entitled to a hearing by the Appeal Tribunal if the Applicant or Licensee delivers to the Clerk, within ten (10) days of service of the written notice as determined under sections 48 and 49 of this Bylaw, a written request for a hearing before the Appeal Tribunal with the appeal fee included as set out in the Fees and Charges Bylaw.
31. No Person shall re-apply with the Licence Manager to obtain or renew a Licence for a minimum of one (1) year from the later of:
- a. The date of the Licence Manager's decision to refuse to issue, renew or revoke a Licence; or
 - b. Where the decision of the Licence Manager is appealed, the date of the Appeal Tribunal's decision if the Appeal Tribunal upholds the decision to refuse to issue, renew or revoke a Licence.
32. Where no appeal is registered within the required time period, the decision of the Licence Manager shall be final.

33. The Licence application fee and renewal fee is non refundable if a decision is made by the Licence Manager to refuse to issue/renew, revoke or suspend a Licence.

THE HEARING BEFORE THE APPEAL TRIBUNAL

34. The power and authority to conduct an appeal hearing under this Bylaw are hereby delegated to the Appeal Tribunal.
35. When the Applicant or Licensee who has been given written notice of the hearing does not attend at the appointed time and place, the Appeal Tribunal may proceed with the hearing in his or her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceedings.
36. The Appeal tribunal may give its decision orally or reserve its decision, but in any case it shall provide its decision in writing, with reasons, within fourteen (14) days of the hearing to the Applicant or Licensee and the Licence Manager.
37. In making its decision the Appeal Tribunal may:
- a. Uphold or vary the decision of the Licence Manager; or
 - b. Make any decision that the Licence Manager was entitled to make in the first instance.
38. The decision of the Appeal Tribunal issued under this Bylaw is final.

GENERAL REQUIREMENTS

39. Every Licensee shall prominently display the Licence at the Premises at all times and shall produce the Licence upon request by the Licence Manager or Officer.
40. Every Licence, at all times, is owned by and is the property of the Township and is valid only in respect of the Person and for the Premises named therein.
41. When a Licensee changes his or her address or any information relating to the Licence including but not limited to insurance requirements, he or she shall notify the Licence Manager within seven (7) days of the change of address or any other information relating to his or her Licence and shall return the Licence immediately to the Licence Manager for amendment.
- a. When the Licensee is a corporation, and there is any change in the following information given on the application, namely: the names and addresses of officers and directors, the location of the corporate head office, and/or change of ownership shares, the Licensee shall report the change to the Licence Manager within seven (7) days of the change, and if necessary, the Licence shall be returned immediately to the Licence Manager for amendment.
42. Where a Zoning Certificate has been issued based upon the use being approved by a Committee of Adjustment decisions, the Zoning Certificate is subject to all conditions and restrictions imposed by the Committee of Adjustment on the use, including the term that the use is permitted, and upon expiry of the term, as permitted by the Committee of Adjustment, the Zoning Certificate shall no longer be valid.

NUISANCE ABATEMENT

43. Every Person required to be licensed under this bylaw, in addition to any other provisions or requirements expressed elsewhere in the bylaw shall:
- a. At all times maintain and keep safe and clean and in good condition and repair any place or premise for which the licence is issued;

- b. Not breach or violate or cause, suffer, or permit any breach or violation of any bylaw of the Corporation or of any Local Board, thereof, or of any statute, Order-in-Council, or Regulation of the Legislature of the Province of Ontario or the Parliament of Canada or of any Agency, Board or Commission thereof, in, upon or in connection with the business or premise for, or in relation to which such licence was issued;
- c. Not cause, suffer or commit any nuisance to arise in, on, or in connection with the place or premise for which the licence was issued;
- d. Not cause, suffer, or permit any shouting, noise or other disturbance on, in or in connection with the place or premise for which the licence was issued, which is unnecessary, unreasonable or contrary to any municipal bylaw prohibiting the same; and if any such shouting, noise or other disturbance occurs, the licensee shall immediately take steps to cause the same to be abated;
- e. Not cause, suffer, or permit any obstruction on any highway, lane or public place in front of or adjoining the place or premise for which the licence was issued; and
- f. Not cause, suffer, or permit any profane, offensive or abusive language or disorderly conduct in, on, or in connection with any place or premise for which the licence was issued.

GENERAL PROHIBITIONS

44. No Person shall:

- a. Own or operate a Medical Marihuana Facility unless the Person is licensed under this Bylaw; or
- b. Represent to the public that the Person is licensed under this Bylaw if the Person is not so licensed; or
- c. Contravene or fail to comply with a term or condition of his, her or its Licence imposed under this Bylaw; or
- d. Operate a Medical Marihuana Facility while their Licence issued under this Bylaw is under suspension; or
- e. Transfer a Licence issued under this Bylaw.

GENERAL POWERS OF OFFICERS

45. Where a Licensee contravenes any provision of this Bylaw, an Officer may:

- a. Serve a written notice on the Licensee, advising of the contravention and directing compliance; or
- b. Direct in a written order that a thing or matter is required to be done, and in default of such matter or thing being done, the matter or thing will be done at the Licensee's expense by the Township and the Township will recover the expense by action or in like manner as municipal taxes.

NOTICE

- 46. Any notice or order required to be given or served under the Bylaw is sufficiently given or served, if delivered personally or sent by registered mail, addressed to the Person to whom delivery or service is required to be made at the last address for service appearing on the records of the Licence Manager.
- 47. When service is made by registered mail, the service shall be deemed to be effected on the tenth (10th) day after the date provided on the letter, unless the Person on whom service is being made establishes

that he/she did not, acting in good faith, through absence, accident, illness, or other cause beyond his/her control, receive the notice or order until a later date.

PENALTY

48. Every Person who contravenes any provision of this Bylaw, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, and the *Municipal Act, 2001*, as both may be amended from time to time.

49. In addition to section 48 of this Bylaw, any Person who is charged with an offence under this Bylaw in accordance with Part III of the *Provincial Offences Act* and is found guilty of the offence, is liable, in addition to any other penalties:

- a. If a living person, to a fine of not more than \$25,000; or
- b. If a corporation, to a fine of not more than \$50,000.

MISCELLANEOUS

50. Any section of this Bylaw, or any part thereof, that is found by a court of competent jurisdictions to be invalid shall be severable, and the remainder of the Bylaw shall continue to be valid.

51. In this Bylaw, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine gender and further, the converse of the foregoing also applies with the context so requires.

SHORT TITLE

52. This Bylaw may be referred to as the Medical Marihuana Facilities Licensing Bylaw.

EFFECTIVE DATE

53. This Bylaw shall come into force and effect on the day it is passed.

BYLAW READ AND PASSED THIS 5TH DAY OF DECEMBER, 2017.

Original Signed By

A. Jeffs, MAYOR

Original Signed By

M. Ciuffetelli, DEPUTY CLERK