



MAYFIELD VILLAGE

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ADMINISTRATION
John Marquart, Economic Development Manager

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TO: Council President Schutt, members of Council

FROM: John Marquart, Economic Development Manager
Diane Calta, Law Director

DATE: May 16, 2024

RE: Ordinance no. 2024-09 -- adult use cannabis

In preparation for Monday's discussion and / or action regarding local legislation to regulate adult-use cannabis facilities, we have been working to gather as much relevant information as possible.

Of particular note, we have been able to speak with Eastlake Mayor, David Spotton, regarding facilities within their city:

- When medical use was approved in Ohio, the city amended its zoning code to limit retail dispensaries to industrial zoning districts hugging the Shoreway. Consensus among Council and the administration was that such facilities were not desired along their main retail zones, namely Vine Street.
- Buckeye Relief is a licensed cultivator and processor located on Curtis Blvd, along the Shoreway. As mentioned previously, they occupy a roughly 35,000 sq ft building housing cultivation and processing all under one roof. Plants are harvested every 3 weeks in one area of the building, and products such as vaporizer cartridges, edibles, oils, candies are made from those plants elsewhere in the building. No retail sales occur on-site. The building is outfitted with wastewater and air handling / air scrubbing equipment, and the Mayor indicated that there have still been a handful of odor complaints. It is important to note that the facility is located in a fully industrial area downwind of residential areas, so this likely contributes to the low number of complaints. He also stated that the owner has invested heavily in security, and that there have been no issues on that front.

Employment began around 35, but has steadily grown since 2019, and the company projects that employment will grow to roughly 100 once production ramps up to serve the recreational market coming online this summer. In order to accommodate this growth, the company is exploring a building expansion and seeking additional acreage further east (likely near Geneva) to perform outdoor cultivation (finished products would still be fabricated under roof in Eastlake).

Financially speaking, the Mayor indicated that there is not much local revenue in terms of fees or taxes – only municipal income taxes just like any other employer. Wages are confidential, but are generally known to be in line with warehouse / assembly type work. Assuming \$16 / hour, we could reasonably a staff of 35 (where Buckeye Relief began) to have a payroll of roughly \$1,165,000. At Mayfield Village's 2% rate, this would generate about \$23,295 in income tax revenue per year. Assuming a staff of 100 (where Buckeye Relief projects to grow), a payroll of roughly \$3,325,000 can be expected. At our 2% rate, the Village could expect about \$66,500 in revenue per year from such a facility.

As far as the regulation of adult use cannabis operations in the Village, Ohio Revised Code at Section 3780.25(A) allows the legislative authority of a municipal corporation to adopt an ordinance, by majority vote **to prohibit, or limit** the number of adult use cannabis operators permitted within the municipal corporation. In response to the question of whether or not the Village may impose a tax on the sale of adult use cannabis, Ohio Revised Code Section 3780.25 (G)(2), states that a legislative authority of a municipal corporation is **prohibited from levying any tax, fee, or charge** on adult use cannabis operators, their owners or their property **which is not generally charged on other businesses** in the municipal corporation.

Finally, operations are prohibited within 500 feet of the boundaries of a parcel wherein which a church, public library, public playground, public park or school are located. Schools include daycares and preschools. See the definition of prohibited facility at O.R.C. Section 3780.01(A)(35) and O.R.C. Section 3796.30(A). The attached mark-up Village Zoning Map can give you an idea of those prohibited areas highlighted in yellow with black lines denoting approximately 500 feet.

With these provisions in mind, Village Council may outright prohibit all operators or may limit them. If Council is inclined to prohibit all operations, Ordinance 2024-09 as drafted would be appropriate for passage. If Council were inclined to limit and/or outright permit the operations, a more detailed ordinance would be strongly recommended to address appropriate zoning districts on other considerations for passage as soon as possible (absent a temporary moratorium). A copy of Eastlake's Ordinance regulating medical marijuana is also attached, and can give you an idea of provisions to consider.

Given that the state will be processing applications for adult use cannabis operator licenses in June, it is recommended that some action be taken by Council at its May 20, 2024 Council meeting. Those options include

- **passing Ordinance 2024-09** (this Ordinance even if passed can be repealed at a later date to permit and or limit the operators in the Village);
- **tabling Ordinance 2024-09**, but the Law Department would encourage that if tabled, it be tabled to a date certain for further consideration and that date not be any later than Council's regular meeting in June. During that time, Council could consider amending the Ordinance or a replacement Ordinance;
- **passing a short moratorium** on accepting any zoning applications in the Village to give additional time for any further study of the issue, say through the end of 2024.

If Council were to do nothing at this time, which is not the Law Director's recommendation, we have reviewed the Village's zoning code and the following operations could arguably be permitted in our existing respective zoning districts subject to the 500 foot limitation:

- Dispensaries in the Local Business District and possibly Small Office District; and
- Processors and Distributors in Office-Laboratory and Production- Distribution Districts.

In summary, it is recommended that Council take some action on May 20, 2024, to either:

- 1) Pass Ordinance 2024-09;
- 2) Amend Ordinance 2024-09, for example to prohibit just dispensaries;
- 3) Table Ordinance 2024-09 to Council's June meeting; or
- 4) Pass a Temporary Moratorium for further study of the issue through the end of 2024; (sample legislation is attached that was passed in Beachwood).

Please feel free to reach out with any questions. Thank you – we look forward to the discussion on Monday

ADDRESS/ WARD/ZONE MAP

VILLAGE OF MAYFIELD

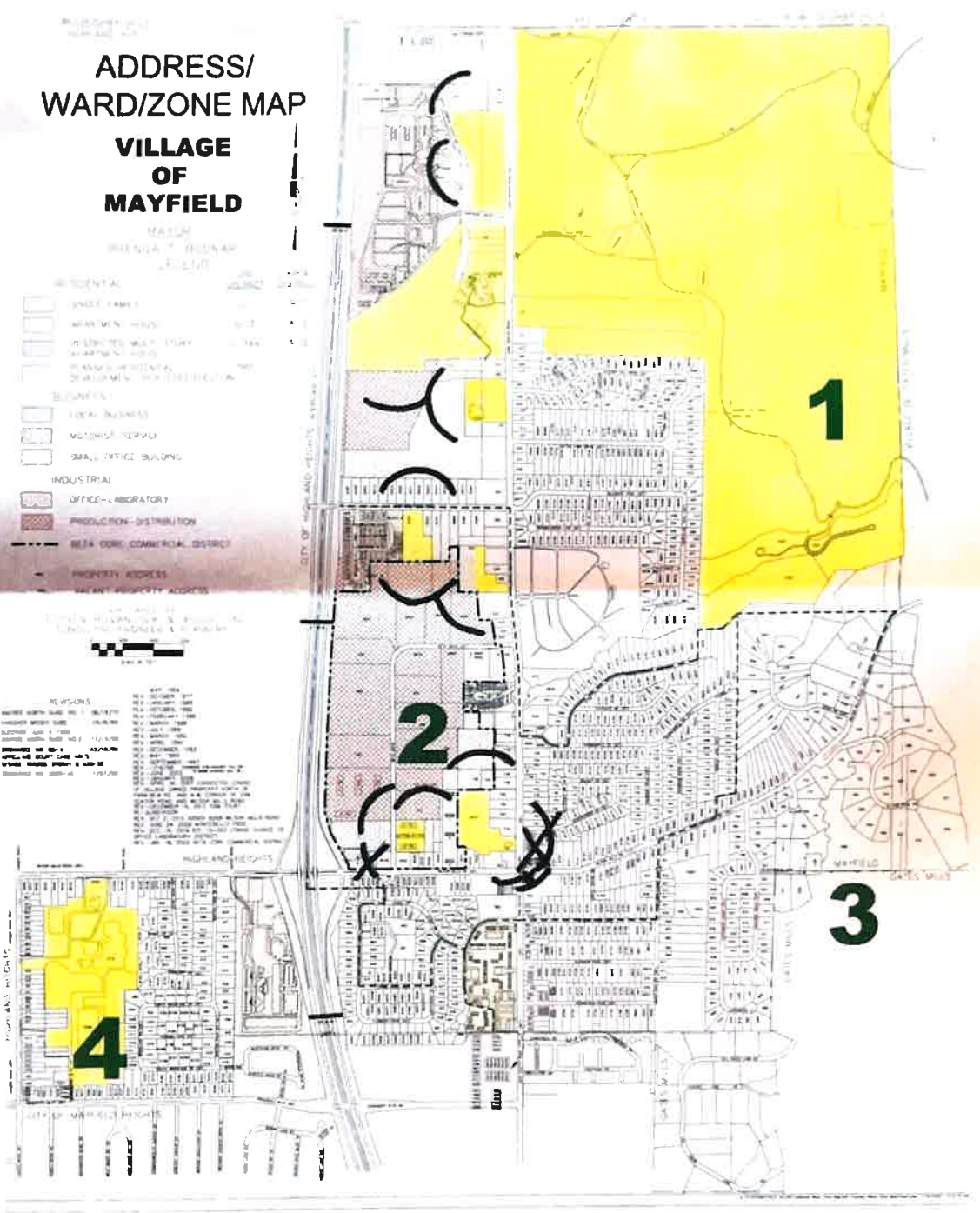
MAYFIELD
BRUNNEN T. BRUNNEN
W. BRUNNEN

- RESIDENTIAL
 - SINGLE FAMILY
 - APARTMENT HOUSES
 - APARTMENT HOUSES WITH STORES
 - APARTMENT HOUSES WITH STORES AND OFFICES
 - APARTMENT HOUSES WITH STORES AND OFFICES AND GARAGES
- COMMERCIAL
 - LOCAL BUSINESS
 - MONTHLY SERVICE
 - SMALL OFFICE BUILDINGS
- INDUSTRIAL
 - OFFICE-LABORATORY
 - PRODUCTION-DISTRIBUTION
- SEPA CORP. COMMERCIAL DISTRICT
- PROPERTY ADDRESS
- VACANT PROPERTY ADDRESS

SCALE 1" = 100'

REVISIONS

NOVEMBER 1988	NO. 1
NOVEMBER 1988	NO. 2
NOVEMBER 1988	NO. 3
NOVEMBER 1988	NO. 4
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Ohio Revised Code Section 3780.01 Definitions.

Effective: December 7, 2023

Legislation: ENACTEDBYINITIATIVEPETITION-ISSUE2

Definitions.

(A) As used in this chapter:

- (1) "Adult use cannabis " or "cannabis " or "marijuana" means marihuana as defined in section 3719.01 of the Revised Code.
- (2) "Adult use cannabis operator" means a level I adult use cultivator, a level II adult use cultivator, a level III adult use cultivator, an adult use processor, and an adult use dispensary.
- (3) "Adult use consumer" means and individual who is at least twenty-one years of age.
- (4) "Adult use cultivator" means a level I adult use cultivator or a level II adult use cultivator.
- (5) "Adult use dispensary" means a person licensed pursuant section 3780.15 of the Revised Code, this chapter and any rules promulgated thereunder to sell adult use cannabis as authorized.
- (6) "Adult use extract" or "extract" means a substance obtained by separating or concentrating cannabinoids and other compounds from any part of the adult use cannabis plant by physical or chemical means, intended to be refined for use as an ingredient in an adult use cannabis product or as a standalone adult use cannabis product.
- (7) "Adult use processor" means a person licensed pursuant section 3780.14 of the Revised Code, this chapter and any rules promulgated thereunder to manufacture adult use cannabis as authorized.
- (8) "Adult use testing laboratory" means an independent laboratory located that has been issued a license by the division of cannabis control to have custody and use of adult use cannabis for scientific purposes and for purposes of instruction, research, or analysis.



- (9) "Advertising" means any written or verbal statement, illustration, or depiction created to induce sales through the use of or a combination of letters, pictures, objects, lighting effects, illustrations, videos, sounds, or other similar means. "Advertisement" includes brochures, promotional and other marketing materials consistent with section 3780.21 of the Revised Code.
- (10) "Applicant" means an individual or person who files an application for a license pursuant to this chapter.
- (11) "Certificate of operation" means a certification of operation or license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.
- (12) "Confidential information" means information that is not a public record for purposes of section 149.43 of the Revised Code.
- (13) "Cultivate" means to grow, harvest, package, and transports adult use cannabis pursuant to this chapter.
- (14) "Cultivation area" means the boundaries of the enclosed areas in which adult use cannabis is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the cultivation area square footage, enclosed areas used solely for the storage and maintenance of mother plants, clones, or seedlings shall not be included.
- (15) "Cultivation facility" means a facility where an adult use cultivator or a level III adult use cultivator is authorized to operate.
- (16) "Dispensary" means a person who has a certificate of operation to operate a dispensary under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.
- (17) "Disqualifying offense" means:
- (a) A conviction or plea of guilty, including conspiracy to commit, attempt to commit, or aiding and



abetting another in committing, the following:

(i) Any offense set forth in Chapters 2925, 3719, or 4729 of the Revised Code, the violation of which constitutes a felony or a misdemeanor of the first degree;

(ii) Any theft offense set forth under division (K) in section 2913.01 of the Revised Code, the violation of which constitutes a felony;

(iii) Any violation for which a penalty was imposed under section 3715.99 of the Revised Code;

(iv) A crime of moral turpitude as defined in section 4776.10 of the Revised Code; or

(v) A violation of any former law of this state, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in paragraphs (a)(i) to (a)(v) of this definition.

(b) Any first degree misdemeanor offense listed in paragraphs (a)(i) to (a)(v) of this definition will not automatically disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.

(c) Notwithstanding paragraph (a) or (b) of this definition, no misdemeanor offense, including misdemeanors of the first degree, related to cannabis possession, cannabis trafficking, illegal cultivation of cannabis, illegal use or possession of drug paraphernalia or cannabis drug paraphernalia, or other cannabis related crimes shall be considered a disqualifying offense.

(18) "Director" means the director of the department of commerce.

(19) "Level I adult use cultivator" mean either a person who has a certificate of operation as a level I cultivator and who is licensed pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, or a person who is licensed as a level I adult use cultivator pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, and either person



may operate up to one hundred thousand square footage of space designated as the cultivation area in the application which may be increased if a request for expansion is approved by the division of cannabis control.

(20) "Level II adult use cultivator" mean either a person who has a certificate of operation as a level II cultivator and who is licensed pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, or a person who is licensed as a level II adult use cultivator pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, and either person may operate up to fifteen thousand square footage of space designated as the cultivation area in the application which may be increased if a request for expansion is approved by the division of cannabis control.

(21) "Level III adult use cultivator" means a person licensed pursuant section 3780.13 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized.

(22) "Level I cultivator" means a person who has a certificate of operation to operate as a level I cultivator under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(23) "Level II cultivator" means a person who has a certificate of operation to operate as a level II cultivator under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(24) "License" means a license by the division of cannabis control to a license applicant pursuant to chapter 3780 of the Revised Code and the rules adopted thereunder.

(25) "License applicant" means an individual or person who applies for a license under this chapter.

(26) "License holder" or "Licensee" means an adult use cannabis operator, adult use testing laboratory or an individual who is licensed under the provisions of chapter 3780 of the Revised Code.

(27) "Manufacture" means the process of converting harvested plant material into adult use extract



by physical or chemical means for use as an ingredient in an adult use cannabis product.

(28) "Medical provisional license" means a provisional license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(29) "Minor cannabinoid" means any cannabinoid other than CBD, CBDa, Delta-9 THC or Delta 9 THCa, including any isomer, analogue, or derivative thereof, and any other cannabinoid that naturally occurs in cannabis, regardless of whether that cannabinoid may be naturally or synthetically derived, which may be used as an ingredient in adult use products.

(30) "Mother plant" means an adult use cannabis plant that is cultivated or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to an adult use processor or an adult use dispensary unless the plant is transferred into the cultivation area of the facility.

(31) "Paraphernalia" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.

(32) "Person" includes, but is not limited to, an individual or a combination of individuals; a sole proprietorship, a firm, a company, a joint venture, a partnership of any type, a joint-stock company, a corporation of any type, a corporate subsidiary of any type, a limited liability company, a business trust, or any other business entity or organization; an assignee; a receiver; a trustee in bankruptcy; an unincorporated association, club, society, or other unincorporated entity or organization; entities that are disregarded for federal income tax purposes; and any other nongovernmental, artificial, legal entity that is capable of engaging in business.

(33) "Primary residence" means the residence of an individual in which the individual's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.



(34) "Processor" means a person who has been issued a processing certificate of operation pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(35) "Prohibited facility" means any church, public library, public playground, public park, or school, as defined in section 3796.30 of the Revised Code.

(36) "Provisional license" means a temporary license issued to an applicant for an individual license that establishes the conditions that must be met by the licensee before the individual is issued a license in accordance with the requirements and conditions set forth in chapter 3780 of the Revised Code and the rules adopted thereunder.

(37) "Tetrahydrocannabinol" or "THC" means the sum of the amount of delta-9 tetrahydrocannabinol (THC) and 87.7 per cent of the amount of delta-9-tetrahydrocannabinolic acid (THCA) present in the product or plant material. THC does not include minor cannabinoids.



Ohio Revised Code

Section 3780.25 Local authority regarding adult use cannabis operators.

Effective: December 7, 2023

Legislation: ENACTEDBYINITIATIVEPETITION,NOVEMBER7,2023

Local authority regarding adult use cannabis operators.

(A) The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, by majority vote to prohibit, or limit the number of adult use cannabis operators permitted under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively.

(B) Notwithstanding division (A) above :

(1) Existing cultivators, processors, or dispensaries who have a certificate of operation may not be prohibited or limited by a municipal corporation or township from operating under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code by a municipal corporation or township unless there is a revocation of the certificate of operation;

(2) Adult use cultivators, adult use processors, and adult use dispensaries that are co-located on the same parcel or contiguous parcels with an adult use cultivator and an adult use processor, who are applicants or license holders under this chapter, and whose owners also have a certificate of operation at the same location as the effective date of this section, may not be prohibited or limited by any municipal corporation or township from operating as an adult use cultivator, adult use processor, or an adult use dispensary co-located with an adult use cultivator and an adult use processor under this chapter because of the significant capital investment in the facilities; and

(3) Dispensaries, or the owners of dispensaries, who have a certificate of operation, and who are not co-located on the same parcel or contiguous parcels with a cultivator or processor that has a certificate of operation, as of the effective date of this section, shall also be authorized to operate as an adult use dispensary without any municipal or township prohibitions upon receiving a license from the division of cannabis control, unless a majority of the members of the legislative authority of a municipal corporation affirmatively pass an ordinance, or a majority of township trustees in a



township affirmatively pass a resolution, after the license is issued and within one hundred and twenty days from license issuance, prohibiting the operation of the adult use dispensary within the municipal corporation or within the unincorporated territory of the township, respectively.

(C) If a majority of the members of the legislative authority of a municipal corporation pass an ordinance, or a majority of township trustees in a township pass a resolution, prohibiting the adult use dispensary pursuant to division (B)(3) of this section, then the adult use dispensary license holder shall cease operations within sixty days, unless the adult use dispensary license holder files with the board of elections within the sixty day timeframe a petition prescribed by the secretary of state, and signed by the lessor of one hundred qualified electors or five per cent of the qualified electors of the municipal corporation or township, requesting that the issue, of whether the adult use dispensary shall remain open as long as the adult use dispensary is licensed pursuant to chapter 3780 of the Revised Code by the division of cannabis control and the municipal corporation or township is eligible to receive host community cannabis funding, be placed on the next general election ballot which election shall not occur less than ninety days from petition filing. If the required signatures and form of petition is verified by the board of election, the issue shall be placed on the next general election which is ninety days or greater away from the petition filing, and notwithstanding any provision of this chapter, the adult use dispensary license holder may continue to operate until the issue is decided at the next authorized general election. A board of elections may discontinue verifying signatures when the number of verified signatures on a petition equals the minimum number of qualified signatures. The secretary of state shall adopt rules in accordance with 119 of the Revised Code for the proper administration and implementation of divisions (C) and (D) of this section.

(D) The form of the ballot to be used at the election provided for in division (C) of this section shall be as follows:

"Shall the following adult use dispensary, _____ (here insert name of adult use dispensary), whose owners also have had a licensed medical marijuana dispensary at _____ (here insert address) since _____ (here insert the date of opening), remain open as long as the adult use dispensary is licensed pursuant to Chapter 3780 of the Revised Code by the Division of Cannabis Control under the Department of Commerce, and the _____ (here insert name of municipal corporation or township) is eligible to receive host community cannabis funding?"



Yes for the Issue

No for the Issue

"

(E) If a majority of the voters at the general election vote yes for the issue, then the adult use dispensary may operate within the municipal corporation or township and the municipal corporation or township shall receive related host community cannabis funding as authorized under section 3780.23 of the Revised Code.

(F) If a majority of the voters at the general election vote no for the issue, then:

(1) The dispensary with a certificate of operation at that location may continue to operate at its current address, or the dispensary may request to relocate the dispensary within ninety days of election certification consistent with the requirements of Chapter 3796 of the Revised Code, and related rules, which relocation request shall be approved regardless of the dispensary districts established by the board of pharmacy as long as the relocation request meets all other applicable requirements of Chapter 3796 of the Revised Code and related rules; and

(2) The adult use dispensary must close within ninety days of election certification unless the adult use dispensary applies to the division of cannabis control for a request to relocate within ninety days of the election certification, and then the adult use dispensary may continue to operate until the request to relocate is approved by the division of cannabis control. The division of cannabis control shall review and approve a request to relocate timely once the request to relocate application is in compliance with this chapter and related rules.

(G) A legislative authority of a municipal corporation or a board of township trustees is prohibited from:

(1) Adopting an ordinance or resolution limiting research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a



research protocol approved by an institutional review board or equivalent entity;

(2) Levying any tax, fee, or charge on adult use cannabis operators, their owners or their property which is not generally charged on other businesses in the municipal corporation or township;

(3) Prohibiting or limiting home grow otherwise authorized under this chapter; and

(4) Prohibiting or restricting an activity that is authorized by this chapter.



Ohio Revised Code

Section 3796.30 Activities prohibited near schools, churches, libraries, playgrounds or parks.

Effective: October 3, 2023

Legislation: House Bill 33

(A) Except as provided in division (B) of this section, no medical marijuana cultivator, processor, retail dispensary, or laboratory that tests medical marijuana shall be located within five hundred feet of the boundaries of a parcel of real estate having situated on it a school, church, public library, public playground, or public park.

If the relocation of a cultivator, processor, retail dispensary, or laboratory licensed under this chapter results in the cultivator, processor, retail dispensary, or laboratory being located within five hundred feet of the boundaries of a parcel of real estate having situated on it a school, church, public library, public playground, or public park, the division of marijuana control shall revoke the license it previously issued to the cultivator, processor, retail dispensary, or laboratory.

(B) This section does not apply to research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

(C) As used in this section and sections 3796.03 and 3796.12 of the Revised Code:

"Church" has the meaning defined in section 1710.01 of the Revised Code.

"Public library" means a library provided for under Chapter 3375. of the Revised Code.

"Public park" means a park established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

"Public playground" means a playground established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.



"School" means a child care center as defined under section 5104.01 of the Revised Code, a preschool as defined under section 2950.034 of the Revised Code, or a public or nonpublic primary school or secondary school.

CHAPTER 770

Medical Marijuana Licensure

- 770.01 Title, purpose and objectives.
- 770.02 Construction, separability and applicability of chapter.
- 770.03 Definitions.
- 770.04 Medical marijuana business license required.
- 770.05 Authority of Safety Director.
- 770.06 Nature of licenses.
- 770.07 Procedure for obtaining license.
- 770.08 Denial of medical marijuana business license.
- 770.09 License expiration, suspension or revocation.
- 770.10 License fees.
- 770.11 Operational requirements for medical marijuana dispensaries.
- 770.99 Penalty.

CROSS REFERENCES

Drug Abuse Control - see GEN. OFF. Ch.513

770.01 TITLE, PURPOSE AND OBJECTIVES.

(a) Title. This Chapter shall be known as Medical Marijuana Licensure.

(b) Purpose. The purpose of this Chapter is to establish standards for licensing, regulation and control of Medical Marijuana Businesses as permitted by Ohio House Bill 523 and The State of Ohio's Medical Marijuana Control Program and the premises upon which they are located and operated for the cultivation and processing and dispensing of medical marijuana to serve registered patients. The objectives of this Chapter are to prevent safety and fire hazards, disturbances, odors, disruption, theft of property, and other such nuisances or dangers within the City. The purpose of this Chapter is also to exercise the authority of the City of Eastlake to allow Medical Marijuana businesses in accordance with applicable state law and regulations.

(c) Authority. The City Council hereby declares that this Chapter shall be deemed an exercise of the police powers of the City Council of Eastlake, Ohio, for furtherance and protection of the health, safety, and general welfare of the citizens of Eastlake.

(Ord. 2017-082. Passed 10-24-17.)

770.02 CONSTRUCTION, SEPARABILITY AND APPLICABILITY OF CHAPTER.

(a) Construction. This chapter shall be liberally construed and applied to promote its purpose and objectives.

(b) Severability. If any provision of this Chapter, or the application thereof to any person or circumstances, is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(c) Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in the Ohio Medical Marijuana Program. In the event of any conflict between the provisions of this Chapter and the provisions of the Ohio Medical Marijuana Program or any other applicable state or local law or regulation, the more restrictive provision shall control. (Ord. 2017-082. Passed 10-24-17.)

770.03 DEFINITIONS.

Unless otherwise defined herein, the terms in this Chapter shall have the same meaning as set forth in Section Sec. 3796.01 of the Ohio Revised Code (the "Revised Code") the Ohio Medical Marijuana Control Program, and any rules promulgated pursuant thereto. The following words and phrases, when used in this Chapter, shall have the meanings respectively assigned to them

(a) As used in this chapter:

- (1) "Academic Medical Center" has the same meaning as in section 4731.297 of the Revised Code.
- (2) "Applicant" means the business entity applying for licensure per this Chapter.
- (3) "Board of Zoning Appeals" means the City Board of Zoning Appeals.
- (4) "Cultivator" means an entity that has been issued a license by the local licensing authority to grow, harvest, package

and transport medical marijuana as permitted under Chapter 3796 of the Revised Code.

(5) "Dispensary" means an entity that has been issued a license by the local licensing authority to dispense medical marijuana products as permitted under Chapter 3796 of the Revised Code.

(6) "Drug Database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(7) "License" means a license or registration granted pursuant to this Chapter.

(8) "Licensed Premises" means the building or portion thereof specified in an application for licensure under this Chapter and used for conducting the operation of a Medical Marijuana Business. The Licensed Premises shall be owned or in possession of the Licensee.

(9) "Licensee" means the person or persons to whom a License is issued pursuant to this Chapter.

(10) "Manufacture" means the process of converting harvested plant material into marijuana extract by physical or chemical means for use as an ingredient in a medical marijuana product.

(11) "Marijuana" means marijuana as defined in section 3719.01 of the Revised Code.

(12) "Medical Marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

(13) "Medical Marijuana Business" means any individual premises upon which any activity to advance or perform the cultivation or manufacturing/processing or dispensing of marijuana or marijuana products for medicinal purposes as otherwise permitted by Ohio H.B. 523, whether or not such premises have other business purposes of any nature whatsoever.

(14) "Operator" means the person or persons having authority to control the Licensed Premises of a Medical Marijuana Business as authorized by the State Licensing Authority.

(15) "Owner" means any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a Medical Marijuana Business.

(16) "Person" means any natural person, firm, partnership, association, corporation or any other form of business organization.

(17) "Physician" means an individual authorized under Chapter 4731 of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Processor" means an entity that has been issued a license by the local licensing authority to manufacture medical marijuana products as permitted under Chapter 3796 of the Revised Code.

(19) "Qualifying Medical Condition" means any of the following:

- (a) Acquired immune deficiency syndrome;
- (b) Alzheimer's disease;
- (c) Amyotrophic lateral sclerosis;
- (d) Cancer;
- (e) Chronic traumatic encephalopathy;
- (f) Crohn's disease;
- (g) Epilepsy or another seizure disorder;
- (h) Fibromyalgia;
- (i) Glaucoma;
- (j) Hepatitis C;
- (k) Inflammatory bowel disease;
- (l) Multiple sclerosis;
- (m) Pain that is either of the following:
 - (i) Chronic and severe;
 - (ii) Intractable.
- (n) Parkinson's disease;
- (o) Positive status for HIV;
- (p) Post-traumatic stress disorder;

- (q) Sickle cell anemia;
- (r) Spinal cord disease or injury;
- (s) Tourette's syndrome;
- (t) Traumatic brain injury;
- (u) Ulcerative colitis;
- (v) Any other disease or condition added by the state medical board under section 4731.302 of the Revised Code.

(20) "Safety Director" means the City Safety Director.

(21) "School" means any educational institution, public, private, secular or parochial, which offers instruction of high school grade or lower.

(22) "State University" has the same meaning as in section 3345.011 of the Revised Code. (Ord. 2017-082. Passed 10-24-17.)

770.04 MEDICAL MARIJUANA BUSINESS LICENSE REQUIRED.

No person shall conduct a Medical Marijuana Business in the City without having first obtained a License therefore as provided in this Chapter, which License shall be designated as a Medical Marijuana Cultivation Business License or a Medical Marijuana Processing Business License or a Medical Marijuana Dispensary License.

(Ord. 2017-082. Passed 10-24-17.)

770.05 AUTHORITY OF SAFETY DIRECTOR.

(a) Authority is hereby established and vested in the Safety Director or his/her designee to act as the local licensing authority for Medical Marijuana Businesses, consider the applications for Licenses under this Chapter, conduct investigations thereon and issue, suspend, revoke, fine, restrict or deny issuance of such Licenses based upon the criteria set forth in this Chapter.

(b) Nothing in this Chapter shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a license issued pursuant to this Chapter.

(c) The Local Licensing Authority is authorized to issue a Medical Marijuana Business License subject to the provisions and restrictions provided in this Chapter.

(Ord. 2017-082. Passed 10-24-17.)

770.06 NATURE OF LICENSE.

(a) All Licenses. All licenses issued under this chapter shall have the following characteristics:

(1) Each such license shall be an annual license which covers a period from the date of issuance for one year unless earlier suspended or revoked;

(2) Each such license shall vest a personal privilege but not any property rights in the licensee;

(3) Each such license shall be required to be displayed permanently in a conspicuous place upon the premise for which it is issued;

(4) Each such license shall be in the name of the Applicant;

(5) Each such license shall be neither assignable nor transferable, either as a person or location; and

(6) Each such license, if lost, destroyed or mutilated, upon application within thirty (30) days thereof may be replaced by a replacement license issued by the Safety Director bearing the word "Replacement" across its face and bearing the same license number as the license which it replaces.

(b) Medical Marijuana Cultivation Licenses. All Medical Marijuana Cultivation Licenses shall permit the holders thereof to conduct any activities permitted to a Cultivator under Chapter 3796 of the Revised Code.

(c) Medical Marijuana Processing Licenses. All Medical Marijuana Processing Licenses shall permit the holders thereof to conduct any activities permitted to a Processor under Chapter 3796 of the Revised Code.

(d) Medical Marijuana Dispensary Licenses. All Medical Marijuana Dispensary Licenses shall permit the holders thereof to conduct any activities permitted to a Dispensary under Chapter 3796 of the Revised Code.

(Ord. 2017-082. Passed 10-24-17.)

770.07 PROCEDURE FOR OBTAINING LICENSES.

(a) Applications for Licenses. All applications for licenses under this chapter shall be in writing on a form approved by and filed with the Safety Director. The application shall be signed by the owner or owners and shall contain information required by this section supplied in detail as to each such person, including general and limited partners, or partnerships, shareholders of corporations and principals of any other type of business entity. In the event that no person owns twenty-five

percent (25%) or more of Medical Marijuana Business, such application shall be signed by an authorized representative of the business. Every owner and operator of the business shall be fingerprinted by the Eastlake Police Department and said persons shall pay for the costs associated with obtaining said fingerprints.

(b) Contents of Applications. The Application shall contain the following information:

- (1) For each individual owner:
 - (i) True name and all other names used in the past five (5) years;
 - (ii) Date of birth;
 - (iii) Permanent home address and all other home addresses used in the past five (5) years;
 - (iv) Business and home telephone numbers;
 - (v) Employment history for the past five (5) years;
 - (vi) A statement as to whether or not the owner has been convicted of any crime other than traffic offenses and, if convicted, the date and court of conviction, the specific crime convicted of, and the penalty imposed;
 - (vii) A statement as to whether or not the owner has ever had ownership interest in a Medical Marijuana Business, and, if so, the specific location of the business and the dates of such operation;
 - (viii) A statement as to whether or not the owner has been denied an application for a marijuana business license in any jurisdiction or has had such license suspended or revoked.
- (2) A description of the nature and operation of the main type of business activity to be conducted upon the premises including a description of the products and the services to be provided by the Medical Marijuana Business;
- (3) A description of the nature and operation of any other business to be conducted in conjunction with the Medical Marijuana Business, and the anticipated percentage of gross revenue to be derived from each respective business;
- (4) The address and telephone number of the premises and the business, if different from the premises;
- (5) The name under which the business and premises will be operated and verification of trade name filed with the secretary of state;
- (6) A statement as to whether or not the owner will directly operate the Medical Marijuana Business, or whether an operator who is not an owner will operate it, and if the latter, the application shall contain information required by this section supplied in detail as to each such operator;
- (7) A floor plan of the premises and the immediate vicinity drawn to scale, showing the square footage, interior dimensions, plans and specifications for the interior of the building, and layout for the business. Layout shall include, but is not limited to restricted access areas, principal uses for each floor area, areas of ingress and egress, and all security cameras;
- (8) A map showing all schools, playgrounds, and public parks within a radius of one thousand (1,000) feet of the premises and all churches within a radius of five hundred (500) feet of the premises;
- (9) The name, address and telephone number of the agent of the business upon whom service of process can effectively and validly be made;
- (10) A security plan that the business intends to install, employ and operate to meet all requirements of the Ohio Medical Marijuana Program pursuant to Section 3796:2-1-03(4) of the Revised Code including policies and procedures to ensure a secure, safe facility to prevent theft, loss, or diversion and protection of facility personnel;
- (11) A delivery and transportation plan detailing the method and explanation of delivery and transportation and shipping services to the location in compliance with the Ohio Medical Marijuana Program, which plan shall include the names and registration numbers of the licensed employees transporting medical marijuana or medical marijuana products and proof of compliance with Section 3796:5-3 of the Revised Code;
- (12) A copy of the title or lease to the premises and verification that all activities at the proposed licensed premises are permitted under the Eastlake Planning and Zoning Code, Part 11, Codified Ordinances of Eastlake, OH;
- (13) A copy of the Articles of Incorporation, if the owner is a corporation;
- (14) A copy of the Operating Agreement, if the owner is a limited liability company;
- (15) A copy of the Partnership Agreement, if the owner is a partnership;
- (16) Specification of the days of the week and the hours of the day during which the licensed activity will be conducted;
- (17) Statement that the information contained therein is complete, accurate and truthful to the best knowledge of all applicants; and
- (18) Any other information which the Safety Director may deem reasonably necessary for the full interest of the public in the application.

(c) Report of the Planning Commission. Upon receipt of an application for a license under this chapter, the Safety Director shall refer the application to the Planning Commission for hearing. The Planning Commission shall make specific findings on their record, and issue a written report to the Safety Director within ten (10) days of the hearing which contains the following information:

(1) Whether the licensed activity will not be materially detrimental to the public welfare, health, safety or morals, or alter the essential character of the locality;

(2) Evidence that the premises and Medical Marijuana Business thereon will create a fire, police or safety hazard;

(3) Whether any owners and operators have any convictions for any felony or for any misdemeanor involving physical violence, gambling activity, controlled substances, minors or any crime involving moral turpitude; and

(4) Whether the location proposed for licensing complies with any and all zoning and land use laws of the City and any all restrictions on Medical Marijuana Businesses as set forth in this Chapter.

(d) Determination Process. The process to issue a Medical Marijuana License subsequent to the public hearing and the issuance of the report of the Planning Commission as set forth in this Section 770.07 shall proceed as follows:

(1) Safety Director. The Safety Director shall, within ten (10) days of the receipt of the written report to either issue such license or deny such license. The Safety Director has authority to refuse to issue any License for Good Cause, subject to judicial review;

(2) Appeal to Board of Zoning Appeals. In the event of the denial of the issuance of a License, the applicant shall be notified of such denial, and the specific reasons therefore, in writing. Such notice shall be mailed or delivered to the applicant at the address specified in the application. The applicant shall have ten (10) days after receipt of such notice to appeal such denial, by filing a written notice of appeal and the fee associated therewith with the Board of Zoning Appeals. Thereafter, the applicant shall have not less than ten (10) days' notice of the date, time and place of the hearing. The appeal shall be heard by the Board of Zoning Appeals, which, after hearing, shall recommend to City Council to whether to confirm or deny the determination made by the Safety Director. The Board of Zoning Appeals shall, at its discretion, recommend to City Council to whether to issue a conditional or probationary license;

(3) City Council. After a recommendation by the Board of Zoning Appeals, the Eastlake City Council shall either adopt or reject the recommendation of the Board of Zoning Appeals;

(4) Appeal to Court. The decision of Eastlake City Council may be appealed to a court of competent jurisdiction pursuant to Ohio Revised Code Section 2506.

(e) License Conditional on Approval of State Licensing Authority. Each Medical Marijuana Business License shall be approved only conditionally upon approval by the appropriate state licensing authority. Until such time as the appropriate state licensing authority has granted a Certificate of Occupancy to the Medical Marijuana Business, the License granted pursuant to this Chapter shall be considered a Conditional License.

(f) License Renewal. Each Medical Marijuana Business License must be annually renewed. At the time of renewal, a statement shall be filed with the Safety Director that the information listed on the original application for the license is still complete, accurate and truthful to the best knowledge of all applicants, or a statement shall be filed with the Safety Director listing each and every item of information which has changed since the original application. The Safety Director shall determine whether to accept such statement and issue the license requested, or he may determine to enforce the procedure required for an original license. The Local Licensing Authority may deny the renewal of a License for Good Cause.

(Ord. 2017-082. Passed 10-24-17.)

770.08 DENIAL OF MEDICAL MARIJUANA BUSINESS LICENSE.

No Medical Marijuana Business License shall be issued or renewed for any business or premises where any of the following facts or circumstances exist:

(a) The Applicant has been found guilty of any offense set forth in chapters 2925, 3719, or 4729 of the Revised Code, the violation of which constitutes a felony or misdemeanor of the first degree.

(b) The Applicant has been found guilty of any theft offense set forth under division (K) in section 2913.01 of the Revised Code, the violation of which constitutes a felony.

(c) The Applicant has been found guilty of any violation for which a penalty was imposed under section 3715.99 of the Revised Code.

(d) The Applicant has been found guilty of a crime of moral turpitude as defined in section 4776.10 of the Revised Code.

(e) A violation of any former law of this state, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in paragraphs (a) through (d).

Any first-degree misdemeanor offense listed in paragraphs (a) through (e) will not automatically disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed. Notwithstanding anything to the contrary in this section, no misdemeanor offense, including misdemeanors of the first degree, related to marijuana possession, marijuana trafficking, illegal cultivation of marijuana,

illegal use or possession of drug paraphernalia or marijuana drug paraphernalia, or other marijuana related crimes shall be considered a disqualifying offense.

(f) The premises do not have adequate security installed, employed and operated to address any and all safety concerns of the Safety Director.

(g) The premises are located within one thousand (1,000) feet of any school, playground, public park or within five hundred (500) feet of any church.

(h) The premises or operation thereof would be in violation of any provision of the Building Code, Zoning Code, Fire Code of the City or any other applicable provisions of local, state or federal law.

(i) The applicant made a false statement or misrepresentation as to a material matter upon the application or in a hearing concerning the license.

(j) The application failed to provide all of the required information.

(k) The applicant has failed to demonstrate compliance with this chapter and all other applicable state and local ordinances and statutes

(Ord. 2017-082. Passed 10-24-17.)

770.09 LICENSE EXPIRATION, SUSPENSION OR REVOCATION.

(a) Expiration. Any Medical Marijuana Business License issued under this chapter shall expire upon the transfer or sale of a majority interest in the business, or the discontinuation of the business for a continuous period of thirty (30) days. Any Medical Marijuana Business License issued under this chapter shall expire upon the transfer or sale of such business.

(b) Suspension and Revocation. All licenses issued under this chapter shall be suspended or revoked upon recommendation of the Board of Zoning Appeals upon its finding of the occurrence of any of the following events:

(1) A false statement by any licensee as to a material matter made in an application for license or in a hearing concerning the license;

(2) Conviction of any licensee for any crime referenced in Section 770.08.

(c) Hearing. The suspension or revocation of any license under this chapter shall not occur without a hearing. The licensee shall be given at least ten (10) days written notice of the intent to suspend or revoke said license, which shall set forth the date, time and place of the hearing and the specific reasons for such suspension or revocation. The licensee shall have the right at that hearing to present testimony and other relevant evidence and to orally examine any person offering evidence as to the reasons for suspension or revocation.

(d) Review by Council. The recommendation of the Board of Zoning Appeals shall be forwarded to City Council who shall either approve or deny the recommendation of the Board of Zoning Appeal pursuant the provisions of the Codified Ordinances of the City of Eastlake.

(e) Appeal. The decision of City Council may be appealed to a court of competent jurisdiction under Ohio Revised Code Section 2506.

(Ord. 2017-082. Passed 10-24-17.)

770.10 LICENSE FEES.

(a) Medical Marijuana Cultivation Business License. Twenty Thousand Dollars (\$20,000) at application and renewal.

(b) Medical Marijuana Processing Business License. Five Thousand Dollars (\$5,000) at application and renewal.

(c) Medical Marijuana Dispensary Business License. Fifteen Thousand Dollars (\$15,000) at application and renewal.

(d) Replacement License. The fee for a replacement license shall be Twenty-Five Dollars (\$25.00).

(e) Filed with Application. The license fee referenced shall be filed with the application for license.

(f) Return of Fee. In the event an application is denied under this chapter or by the applicable state licensing authority, one-half (1/2) of the license fee shall be returned to the applicant.

In the event any license is suspended or revoked under this chapter, no portion of the license fee shall be returned to the owner.

(Ord. 2017-082. Passed 10-24-17.)

770.11 OPERATIONAL REQUIREMENTS FOR MEDICAL MARIJUANA DISPENSARIES.

(a) Any sale of medical marijuana to a qualifying patient shall be made in person, directly to the purchaser, within the restricted area of the Medical Marijuana Dispensary. No sale shall be made by telephone, internet, or other means of remote purchase, nor shall home delivery be permitted. Delivery shall occur only in person to the purchaser at the time of purchase within the confines of the Medical Marijuana Dispensary.

(b) Drive-in or drive-through sales shall not be permitted.

(c) A Medical Marijuana Dispensary must use a commercial-grade filtration system to mitigate the impact of odor at the

premises.

(d) A Medical Marijuana Dispensary shall post, in a visible location at its premises, contact information for local drug abuse treatment centers, and shall make available to patients upon request educational materials regarding the hazards of substance abuse.

(e) The interior and exterior of a Medical Marijuana Dispensary shall be designed, constructed and maintained in a manner consistent with its purposes as dispensing a substance to address a medical condition. The interior and exterior shall never be maintained to appear or encourage illicit marijuana use and shall otherwise comply with the following regulations:

(1) There shall be no tinted or darkened windows on the Medical Marijuana Dispensary.

(2) There shall be no moving, flashing or strobing signage or lighting in the interior or exterior of the Medical Marijuana Facility.

(3) There shall be no loitering permitted at or near the entrance to the Medical Marijuana Dispensary.

(f) A Medical Marijuana Dispensary shall only be allowed as a permitted use within an M-3 District.

(Ord. 2017-082. Passed 10-24-17; Ord. 2022-050. Passed 6-14-22.)

770.99 PENALTY.

Unless otherwise provided herein, whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed to have been committed each day during or on which a violation occurs or continues.

(Ord. 2017-082. Passed 10-24-17.)

AN ORDINANCE ADOPTING A MORATORIUM ON APPLICATIONS FOR, AND THE APPROVAL OF, ZONING REVIEWS AND PERMITS, BUILDING PERMITS, CERTIFICATES OF OCCUPANCY, AND OTHER PERMITS AND LICENSES FOR ANY BUILDING, STRUCTURE, USE, OR CHANGE OF USE THAT WOULD ENABLE THE CULTIVATION, PROCESSING, DISTRIBUTION, OR SALE OF ADULT USE CANNABIS FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS IN ORDER TO ALLOW THE CITY TO REVIEW APPLICABLE STATE AND LOCAL LAWS; TO PLAN FOR REGULATIONS RELATING TO SUCH USES; AND DECLARING THIS TO BE AN URGENT MEASURE.

WHEREAS, on November 7, 2023, Ohio voters passed Issue 2 to enact Chapter 3780 of the Ohio Revised Code, effective December 7, 2023, which legalized and provided for the regulation of “adult use cannabis” as defined in Section 3780.01 of the Revised Code, including cultivation, processing, sale, purchase, possession, and home growth;

WHEREAS, the Ohio Senate passed H.B. 86 on December 6, 2023, which made changes to the provisions in Chapter 3780 enacted by the passage of Issue 2, but H.B. 86 remains pending in the Ohio House of Representatives;

WHEREAS, Section 3780.25 of the Ohio Revised Code gives this Council the authority to adopt an ordinance to prohibit, or limit the number of adult use cannabis operators licensed under Ohio Revised Code Chapter 3780 of the Revised Code within the City;

WHEREAS, pursuant to the City Charter, as well as the Ohio Constitution, this Council also has the inherent power to enact planning, zoning and business regulations and laws that further the health, safety, welfare, and peace of its citizens, including restricting or prohibiting certain business uses;

WHEREAS, this Council has determined that the public peace, health, safety, and general welfare is preserved by establishing a moratorium on the applications for zoning approvals, building permits, and certificates of occupancy related to adult use cannabis while the legislature deliberates changes to Ohio Revised Code Chapter 3780.

WHEREAS, this Council has further determined that additional time is needed to review the applicable sections of Ohio Revised Code Chapter 3780 once the amendments go into effect, as well as the City’s Codified Ordinances, and to plan for and formulate a response to adult use of cannabis within the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, State of Ohio, that:

Section 1. This Council hereby establishes a moratorium on the acceptance of any application for, and the approval of, any zoning reviews and permits, building permits, certificates of occupancy, and any other permits and licenses for any building, structure, use, expansion of use, or change of use that would enable the cultivation, processing, distribution, or sale of adult use cannabis in the City of Beachwood for a period of six (6) months from the effective date of this Ordinance.

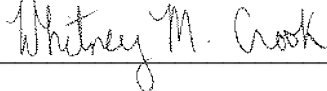
Section 2. No existing business in the City of Beachwood shall change or expand in any way that would establish the cultivation, processing, distribution, or sale of adult use cannabis for the duration of the moratorium period established by this Ordinance.

Section 3. All formal actions of this Council related to this Ordinance and all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4. This Ordinance is declared to be an urgent measure necessary for the immediate preservation for the public peace, health and safety of the City and the inhabitants thereof for the reason that this action is necessary to enable the City to fully study the impacts of Chapter 3780 of the Ohio Revised Code and its effects on the City and the health, safety and general welfare of its inhabitants, and provided it receives approval of two-thirds of the members of Council, shall be in full force and effect from and after its passage and approval by the Mayor.

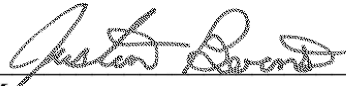
WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 8th day of January, 2024, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 9th day of January, 2024.



Clerk

Approval: I have approved this legislation this 9th day of January, 2024, and filed it with the Clerk.



Mayor