



1368 Research Park Dr
Beavercreek, Ohio

CITY COUNCIL
Special Meeting – June 18, 2108, Following Work Session
Council Chambers

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Ordinance 18-11 Amending Title XI Business Regulations of the Code of Ordinances (Emergency)
- V. ADJOURNMENT

PEC

ORDINANCE NO. 18-11
CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER _____ ON THE _____ DAY OF _____, 2018.

**AN ORDINANCE AMENDING TITLE XI (“BUSINESS REGULATIONS”)
BY ADDING CHAPTER 115 (“MEDICAL MARIJUANA DISPENSARIES”)
TO ADDRESS AND REGULATE MEDICAL MARIJUANA DISPENSARIES
IN THE CITY OF BEAVERCREEK AND DECLARING AN EMERGENCY**

WHEREAS, on September 8, 2016, Ohio House Bill 523 took effect approving a Medical Marijuana Control Program, under which licensed medical marijuana cultivators, processors, dispensaries, and testing laboratories (collectively referred to as “medical marijuana entities”) can operate legally within the State of Ohio; and

WHEREAS, the State of Ohio has been creating policies and rules related to the Medical Marijuana Control Program, with a legal mandate of having a functioning system of operating medical marijuana cultivators, processors, dispensaries, and testing laboratories in place by September 8, 2018; and

WHEREAS, the City of Beavercreek has the power to create zoning and licensing laws relating to these medical marijuana entities; and

WHEREAS, the Beavercreek Zoning Code provides that medical marijuana entities may operate as a conditional use in the zoning districts specified in Section 158.126 of the Beavercreek Zoning Code; and

WHEREAS, the following local licensing laws and regulations will help to ensure that medical marijuana dispensaries and testing laboratories located in the City of Beavercreek operate in a safe and secure manner.

NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I:

Title XI (“Business Regulations”) of the Code of Ordinances of the City of Beavercreek shall be, and hereby is, amended to include Chapter 115 (“Medical Marijuana Dispensaries”), as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION II:

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such

formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to, Section 121.22 of the Ohio Revised Code.

SECTION III:

This Ordinance is declared an emergency measure necessary for the immediate preservation of peace, health, safety, and the general welfare of the people of this municipality and will immediately take effect upon adoption.

PASSED this _____ day of June, 2018.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

SUMMARY

This Ordinance adopts the proposed changes to Title XI (“Business Regulations”) as described in Exhibit A attached hereto and incorporated herein by reference. This is an emergency ordinance and will become effective immediately upon approval.

115.01 Definitions

As used in this Chapter:

- A. "License Clerk" for the purpose of this Title XI, Chapter 115, means the City Manager and/or his designee.
- B. "Local operating license" means a temporary license issued by the City of Beavercreek to a medical marijuana dispensary. A medical marijuana dispensary may not operate in the City of Beavercreek without a valid local operating license.
- C. "Local provisional license" means a temporary license issued by the City of Beavercreek to a medical marijuana dispensary that establishes conditions that must be met by the medical marijuana retail dispensary.
- D. "Marijuana" means marijuana as defined in Ohio Revised Code Section 3719.01.
- E. "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose in accordance with the laws of the State of Ohio.
- F. "Medical marijuana cultivation facility" means an entity licensed to grow, prepare, and package medical marijuana for the sale to medical marijuana processing facilities and/or to other medical marijuana cultivation facilities, but not directly to retail dispensaries or patients.
- G. "Medical marijuana entity" means a medical marijuana cultivator, processor, dispensary, or testing laboratory as authorized by Chapter 3796 of the Ohio Revised Code.
- H. "Medical marijuana processing facility" means a licensed entity which processes medical marijuana obtained from a medical marijuana cultivation facility into a form that may be dispensed, delivered, or sold to one or more licensed retail dispensaries.
- I. "Medical marijuana retail dispensary" means a licensed medical clinic whose primary function is to prepare and sell medical marijuana to authorized patients.
- J. "Medical marijuana testing facility, research facility, or laboratory" means a licensed entity that obtains medical marijuana from licensed cultivators, processors, and retail dispensaries to conduct testing on the produce. Testing procedures include but are not limited to testing for potency, homogeneity, and contamination and the preparation of a report of test results.

- K. "Person" means any natural or corporate person, business association or other business entity, including but not limited to a firm, corporation, limited liability company, partnership, joint venture, sole proprietorship, or any other legal entity.
- L. "Processor" means a person, as defined in this Section, that manufactures medical marijuana products as authorized by Chapter 3796 of the Ohio Revised Code.
- M. "Prohibited facility" means a school, church, public library, public playground, or public park.
- N. "Valid" means not expired, suspended or revoked.

115.02 Licensing of Medical Marijuana Dispensaries

- A. No medical marijuana dispensary shall operate in the City of Beavercreek unless the entity possesses a valid local operating license pursuant to this Chapter and a valid state certificate of operation from the Ohio Department of Commerce, except as otherwise provided in this Section.
- B. A medical marijuana dispensary seeking to obtain a local operating license under this Chapter must first apply for a local provisional license. A medical marijuana dispensary may not receive a building permit or certificate of occupancy unless, at the time such documents are issued, the dispensary possesses a valid local provisional license.
- C. An application for a local provisional license shall be made to the License Clerk and shall include:
 - 1. The legal name of the applicant.
 - 2. The type of business organization of the applicant, such as an individual, corporation partnership, limited liability company, association, cooperative, joint venture, or any other business organization.
 - 3. Confirmation that the applicant is registered with the Ohio Secretary of State as the type of business submitted pursuant to this rule, a certificate of good standing issued by the Ohio Secretary of State, and a copy of the applicable business documents governing the operations and administration of the business.
 - 4. The mailing address, email address, and phone number of the applicant, if the applicant is an individual, or the name, mailing address, email address, and phone number of a designated representative of the applicant, if the applicant is not an individual.
 - 5. If the applicant is currently, was previously, or has applied to be licensed or authorized in another state or jurisdiction to cultivate, produce, test dispense, or otherwise deal in the distribution of medical marijuana in any form, the following:

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- a. A copy of each licensing/authorizing document verifying licensure in that state or jurisdiction;
 - b. A statement granting permission to contact the regulatory agency that granted the license, accompanied by the contact information, to confirm the information contained in the application; and
 - c. If the applicant was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never warned, fined, denied, suspended, revoked or otherwise sanctioned. This includes notification of any pending proceedings regarding warnings, fines, denials, suspensions, revocations, or other sanctions.
6. With respect to any person presently or previously associated with the applicant, any instance in which such person managed or served on the board of a business and was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding in connection with such management or service, as well as information regarding the association between such person and the applicant.
 7. The proposed physical address of the applicant's medical marijuana dispensary and confirmation that the property is properly zoned for such use under §158.126, in the form of an ordinance authorizing a conditional use under Chapter 158 of the Code.
 8. A location area map of the area surrounding the proposed medical marijuana dispensary that establishes that the parcel of real estate on which the proposed facility will be located is at least five hundred feet from the boundaries of a parcel of real estate having situated on it a prohibited facility, as measured under Chapter 3976:5-5-01 of the Ohio Administrative Code.
 9. Any other information requested by the License Clerk.
 10. A non-refundable application fee of \$5,000.00 (Five Thousand Dollars).
- D. An application for a local provisional license shall be granted on the approval of the License Clerk at his/her discretion, except as otherwise provided in this Section. Within one (1) year of receiving a local provisional license, a medical marijuana dispensary may apply for a local operating license. If a medical marijuana dispensary possessing a local provisional license has not applied for a local operating license within one (1) year, the local provisional license will expire and a medical marijuana dispensary seeking a local operating license will need to first submit a new application for a local provisional license.
- E. An application for a local operating license shall be made to the License Clerk and shall include:
1. A copy of the provisional license application by the medical marijuana dispensary to the Ohio Department of Commerce under Chapter 3796 of the Ohio Revised Code.

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2. A copy of the provisional license granted by the Ohio Department of Commerce under Chapter 3796 of the Ohio Revised Code to the medical marijuana dispensary at the address at which the facility is to be located.
 3. Confirmation that the medical marijuana dispensary is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
 4. Confirmation that the Beavercreek Police Department has inspected the facility and approved the security arrangements.
 5. Any other information requested by the License Clerk.
 6. A non-refundable application fee of \$5,000.00 (Five Thousand Dollars).
- F. An application for a local operating license shall be granted on the approval of the License Clerk at his/her discretion, except as otherwise provided in this Section. No local operating license shall be issued by the License Clerk except upon presentation of a valid state certificate of operation.
- G. Every local operating license issued by the City shall expire one (1) year after the date on which it was issued. A renewal application for a medical marijuana dispensary shall be submitted to the License Clerk at least ninety (90) days prior to the expiration date of the local operating license. The renewal application shall include:
1. Confirmation that the medical marijuana dispensary is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
 2. A copy of a valid certificate of orientation issued by the Ohio Department of Commerce to the medical marijuana dispensary for the same address.
 3. Any other information requested by the License Clerk.
 4. A non-refundable renewal fee of \$15,000.00 (Fifteen Thousand Dollars).
- H. An application for a renewal of a local operating license shall be granted on the approval of the License Clerk at his/her discretion, except as otherwise provided in this Section. No local operating license shall be issued by the License Clerk except upon presentation of a valid state certificate of operation.
- I. Both local provisional licenses and local operating licenses are only valid as to the particular address listed in the initial local provisional license application. A medical marijuana dispensary which has obtained a local operating license may submit an application for a location change to the License Clerk, which shall include:
1. Confirmation that the medical marijuana entity is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
 2. A copy of a valid certificate of operation issued by the Ohio Department of Commerce to the medical marijuana entity for the current address.
 3. The new proposed physical address of the applicant's medical marijuana entity and confirmation that the property is properly zoned for such use under

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§158.126, in the form of an ordinance authorizing a conditional use under Chapter 158 of this Code.

4. A location area map of the area surrounding the newly proposed medical marijuana entity location that establishes that the parcel of real estate on which the facility will be located is at least five hundred feet from the boundaries of a parcel of real estate having situated on it a prohibited facility, as measured under Chapter 3796:5-5-01 of the Ohio Administrative Code.
 5. Any other information requested by the License Clerk.
 6. A non-refundable application fee \$5,000.00 (Five Thousand Dollars).
- J. An application for a location change for a local operating license may be granted on the approval of the License Clerk at his/her discretion, except as otherwise provided in this Section. If approval for the location change is granted, a new local operating license will be issued.
- K. Both local provisional licenses and local operating licenses are only valid as to the particular medical marijuana dispensary listed in the initial local provisional license application. If the ownership of a medical marijuana dispensary changes, requiring a transfer of ownership application of the State of Ohio under Chapter 3796:6-2-12 of the Ohio Administrative Code, the medical marijuana dispensary must notify the City. If the State of Ohio determines that the proposed ownership change complies with Chapter 3796:6-2-12, the ownership change will be permitted by the City under the existing local provisional license or local operating license. If the State of Ohio determines that a new state license application is required under Chapter 3796:6-2-12 of the Ohio Administrative Code, then the ownership change will not be permitted by the City without a new local provisional license and a new local operating license.
- L. As part of the submission of an application that results in the issuance of a local provisional license or local operating license, a medical marijuana dispensary irrevocably consents to the following:
1. Any inspection of the City of Beavercreek or the Beavercreek Police Department that is deemed necessary to ensure compliance by the medical marijuana dispensary with this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code. An inspection may be conducted with or without notice. During an inspection, a representative of the City of Beavercreek or the Beavercreek Police Department may:
 - a. Review and make copies of all records maintained in accordance with rule 3796:6-3-18(A)(4) of the Ohio Administrative Code;
 - b. Enter any area in the facility;
 - c. Inspect facility vehicles;
 - d. Review the policies and procedures of the medical marijuana entity, including methods of operating;
 - e. Survey the premises and any off-site facilities;
 - f. Inspect all equipment, instruments, tools, materials, machinery, or any other resource used to dispense medical marijuana;

- g. Request access to locked areas in the facility;
- h. Question licensed employees at the location; and
- i. Obtain samples for testing any medical marijuana at the facility, any labels or containers for marijuana, or any raw packaged medical marijuana.

M. Notification

1. If, at any time, a medical marijuana dispensary is subject to any enforcement action by the State of Ohio under Ohio Administrative Code Chapter 3796:6, the medical marijuana dispensary must immediately notify the City of Beavercreek and provide any relevant information or documentation requested by the City.
2. If, at any time, a medical marijuana dispensary or an employee thereof has a reasonable belief that an actual loss, theft, or diversion of medical marijuana or currency over \$100 has occurred, the medical marijuana dispensary must immediately notify the Beavercreek Police Department, and such notification shall be provided no later than twenty-four (24) hours after discovery of the loss, theft, or diversion.
3. If, at any time, any information in a medical marijuana dispensary's local provisional license application changes, the medical marijuana dispensary must immediately notify the City of Beavercreek.

N. If, at any time, the City becomes aware that a medical marijuana dispensary possessing a local provisional license or a local operating license has engaged in, is engaged in, or is about to engage in any act or practice declared to be prohibited by this Chapter, Chapter 3796 of the Ohio Revised Code, Chapter 3796 of the Ohio Administrative Code, or any other local, state, or federal law, with the exception of acts that are permitted under state law but are federal law violations stemming from the classification of marijuana as a controlled substance under 21 U.S.C. §812(c), the License Clerk may do any of the following:

1. Refer such violations to the Ohio Department of Commerce;
2. Issue a warning to the medical marijuana dispensary, which may include possible corrective action(s);
3. Suspend the license and require any violations to be resolved and corrective actions to be taken as conditions to the reinstatement of the suspended license;
4. Revoke the license.

O. Notice

1. A warning, suspension, or revocation issued by the City under this Section shall be served upon the medical marijuana dispensary at the address for which a local provisional license and local operating license was granted, by personal service, by certified and regular mail, or by posting in a conspicuous location.
2. Notice by certified mail shall be effective upon delivery. In the event that notice by certified mail is returned unclaimed or refused, mailing of the notice by regular mail shall be deemed effective upon mailing. Notice by personal

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service or by posting shall be deemed effective at the time of personal service or posting, respectively.

- P. A medical marijuana dispensary must immediately cease operations upon suspension, revocation, or expiration of a local provisional license or local operating license, unless otherwise instructed by the City, until the suspension is lifted or a new, valid license is obtained.
- Q. Suspension of licenses
1. Suspension of licenses shall only be accomplished through the procedures outlined in this subsection. Suspension shall be accomplished after a public hearing is held thereon by the License Clerk, which hearing shall be held within thirty (30) days after notice is given to the licensee of such hearing, by certified mail and regular mail. The licensee shall have the right to appear at such a hearing, to be represented by counsel, and to have the right to examine and cross examine witnesses.
 2. Suspension may take place without a prior hearing if the License Clerk finds clear and convincing evidence that the continued distribution of medical marijuana presents a danger of immediate and serious harm to others. Notice of the suspension shall be made as provided in this Section and a hearing on the merits of the suspension will take place within five (5) days of the suspension.
 3. The suspension will remain in effect, unless lifted by the License Clerk, pending the results of the hearing. If the License Clerk does not issue an order within ninety (90) days after the hearing, the suspension shall be lifted on the ninety-first (91st) day following the hearing.
 4. As a condition of the reinstatement of a suspended license, the License Clerk may require any violations to be resolved and reasonable corrective actions to be taken.
- R. Revocation of licenses
1. Revocation of licenses shall only be accomplished through the procedures outlined in this subsection. Revocation shall be accomplished only after a public hearing is held thereon by the License Clerk, which hearing shall be held within thirty (30) days after notice is given to the licensee of such hearing, by certified mail and regular mail. The licensee shall have the right to appear at such a hearing, to be represented by counsel, and to have the right to examine and cross-examine witnesses.
 2. If a medical marijuana dispensary's local provisional license or local operating license is revoked, the medical marijuana dispensary will coordinate with the City of Beavercreek and the Ohio Department of Commerce in the closing of the facility as provided for in the Ohio Administrative Code.
- S. In the event of a decision or ruling adverse to a licensee or license applicant regarding a denial, revocation, or suspension of a license, the licensee or license applicant shall have the right to appeal such decision and ruling to a court of

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competent jurisdiction, under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code. A notice of appeal in such action shall be filed with the Office of the City Manager, as well as with the court to which the action is appealed, within appropriate time limits, as provided in Chapter 2505 of the Ohio Revised Code.

- T. The City Manager shall have the authority to deny any application for a local provisional license, local operating license, license renewal, or a location change at his/her discretion.

115.99 Penalty

Whoever violates any provision of this Chapter shall be deemed guilty of a misdemeanor of the first degree.