

Medical Marijuana and the City of Beavercreek

Past Actions and Current Legislation

Timeline of Events Related to Medical Marijuana (Moratoriums)

- ▶ Moratorium Resolution 16-16 passed by City Council 7/25/16
 - ▶ City Council passed this 6-month moratorium to get out in front of the State approval of Substitute HB 523 anticipated to go into effect on 9/8/16.
- ▶ Moratorium Resolution 16-36 passed by City Council 11/28/16
 - ▶ City Council voted to approve the extension of the moratorium passed in July in order to allow time to review and make recommendations on zoning regulations for medical marijuana operations within the City of Beavercreek
- ▶ Moratorium Resolution 17-39 failed to pass City Council 12/11/17
 - ▶ The moratorium was initiated by Mayor Stone to place a 6-month moratorium on processing and cultivating medical marijuana within the City of Beavercreek and was to allow for Council and staff an opportunity to review zoning a policy considerations related to processing and cultivating medical marijuana.

Ordinance 17-10 Certain Deletions, Additions and Changes to Various Sections of the Zoning Code

- ▶ On 5/19/17 an advertisement for a public hearing on 6/7/17 related to Zoning Code Changes (including the adoption of Medical Marijuana regulations) was published in the Xenia Daily Gazette as required by law.
- ▶ The Planning Commission held a Public Hearing on Ordinance 17-10 at 6:00pm at City Hall.
 - ▶ No public input related to Medical Marijuana, but there were two citizens there to speak to the changes in the regulations pertaining to accessory structures.
 - ▶ Recommendation Resolution to City Council passed by a Planning Commission for a 4-1.
- ▶ The City Council advertised and held a public hearing on PC-17 on 6/26/17
 - ▶ No public input on Medical Marijuana, one citizen spoke related to accessory structures
- ▶ The City Council advertised and held a public hearing on Ordinance 17-10 on 7/10/17
 - ▶ No Public Input

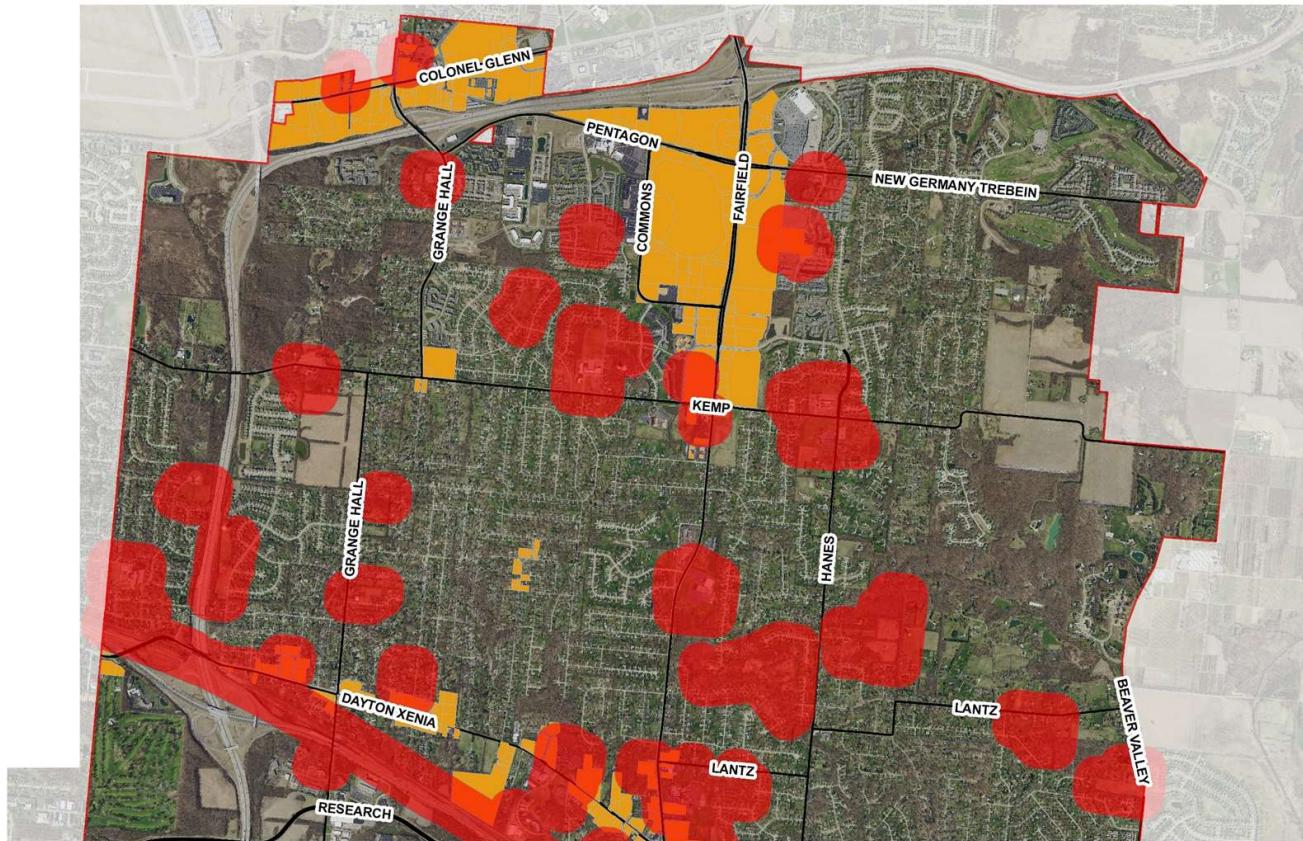
Ordinance 17-10 Certain Deletions, Additions and Changes to Various Sections of the Zoning Code (Cont.)

- ▶ City Council voted to approve Ordinance 17-10, PC case 17-3, for Medical Marijuana, among other changes to the Zoning Code, on 7/24/17.
 - ▶ The vote was 6-1 in favor of the legislation
- ▶ Ordinance 17-1, Resolution 16-16, Resolution 16-36 and Resolution 17-39 have all been included in the handout for you this evening.

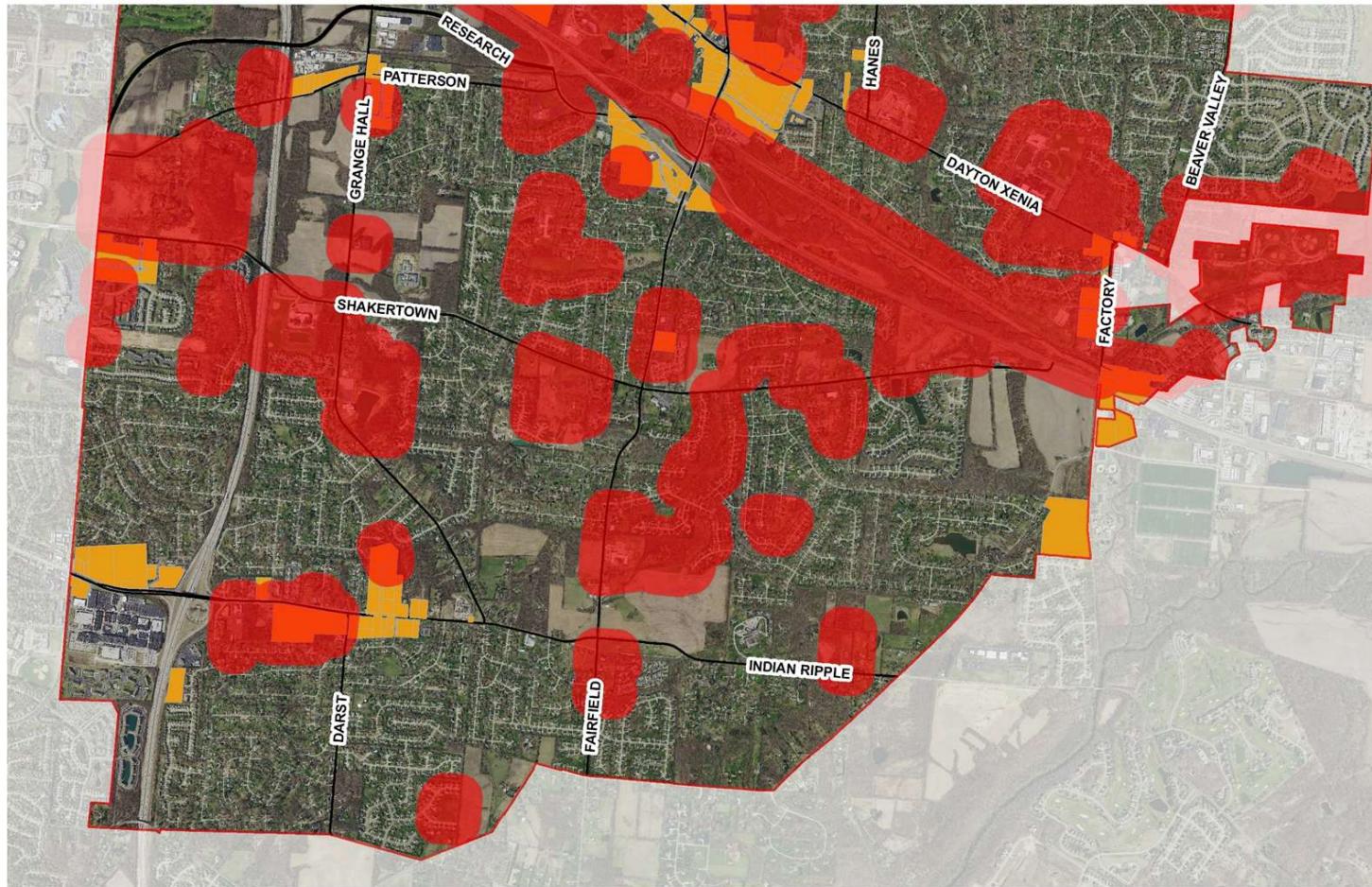
Medical Marijuana Retail Dispensary Regulations

- ▶ Definition: A licensed medical clinic whose primary function is to prepare and sell medical marijuana to authorized patients.
- ▶ A medical marijuana retail dispensary is a conditional use within a B-2, B-3 and B 4 Zoning District. Conditional use shall not be authorized unless the following conditions and the provisions of ' 158.171(C), at a minimum, are be complied with:
 - ▶ 1) No medical marijuana retail dispensary shall be located within 500 feet of the boundaries of a parcel of real estate having a school (including public and private schools, and public and private day care facilities), places of religious assembly, public library, public playground, or public park.
- ▶ Current Valid Applications with the State for Round 1: 4370 Tonawanda Trail, 3400 Seajay Drive, and 3435 Dayton-Xenia Road.

Potential Dispensary Locations North



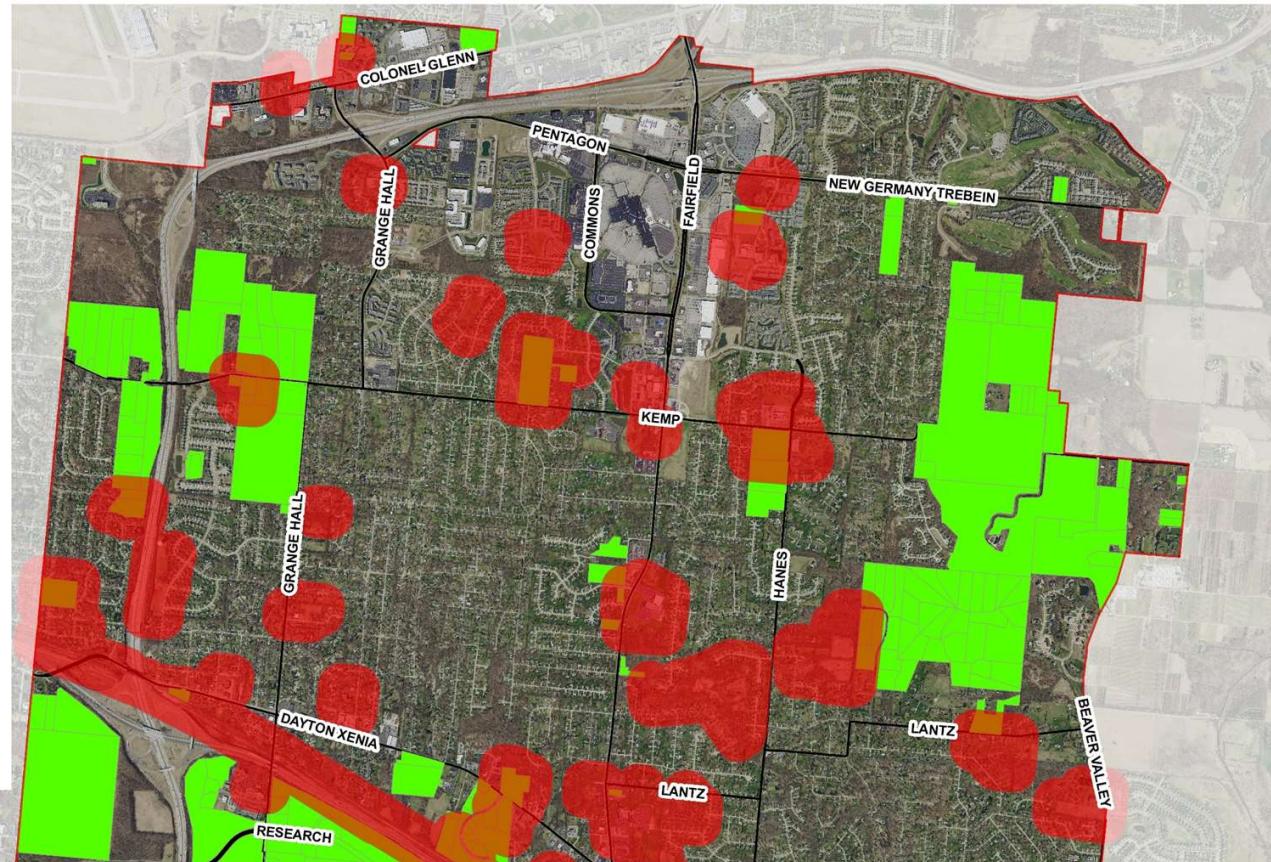
Potential Dispensary Locations South



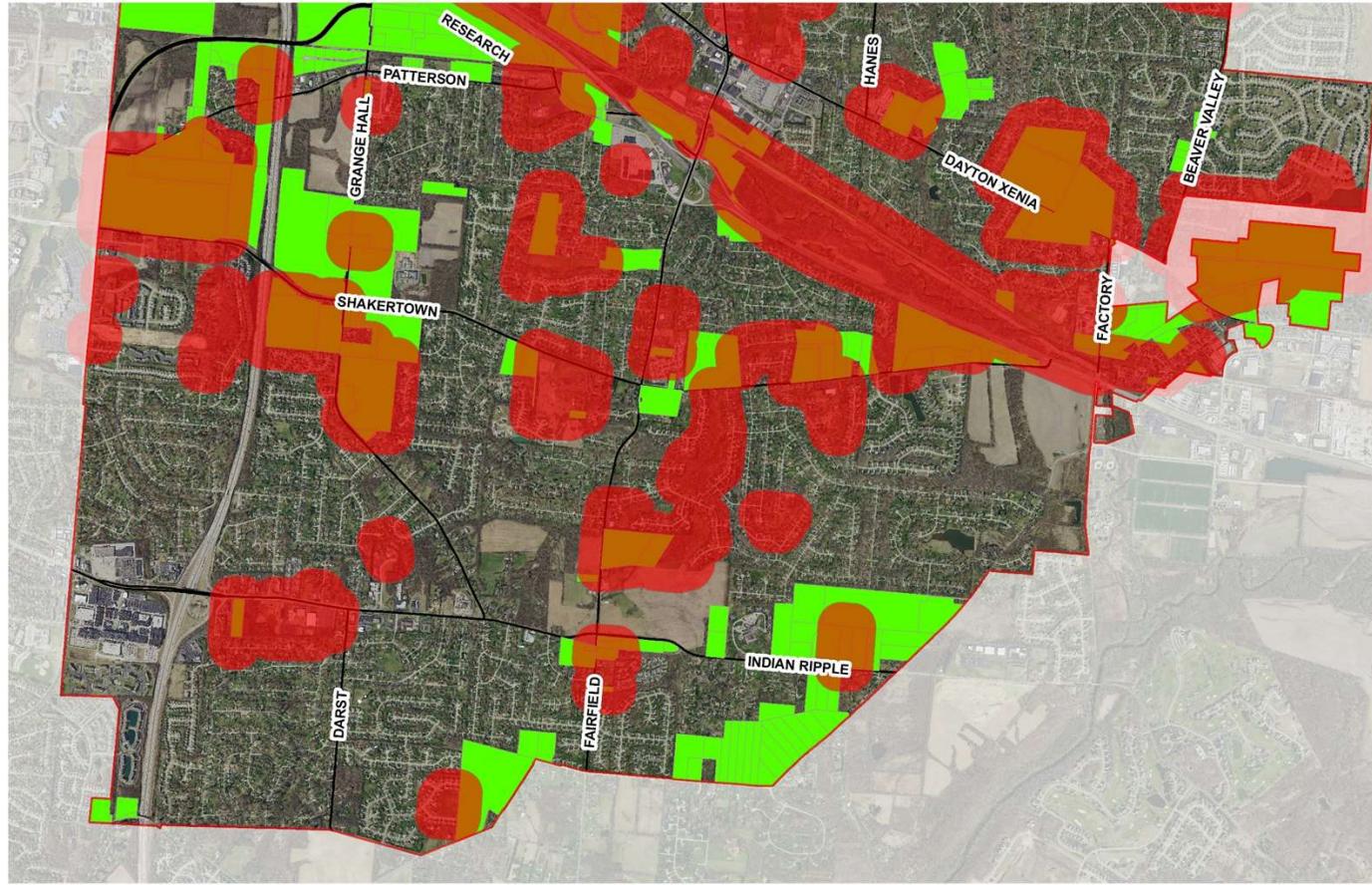
Medical Marijuana Cultivation Facility Regulations

- ▶ Definition: 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.
- ▶ A medical marijuana cultivation facility is a conditional use within an A-1, I-1 and/or I-2 Zoning District. Conditional use shall not be authorized unless the following conditions and the provisions of ' 158.171(C), at a minimum, are be complied with:
 - ▶ (1) Crops, seeds, and byproducts shall be kept inside a secure facility at all times, before, during and after cultivation.
 - ▶ (2) Minimum setback requirements. No medical marijuana cultivation facility shall be located within 500 feet of the boundaries of a parcel of real estate having a school (including public and private schools, and public and private day care facilities), places of religious assembly, public library, public playground, or public park.

Potential Cultivating Locations North



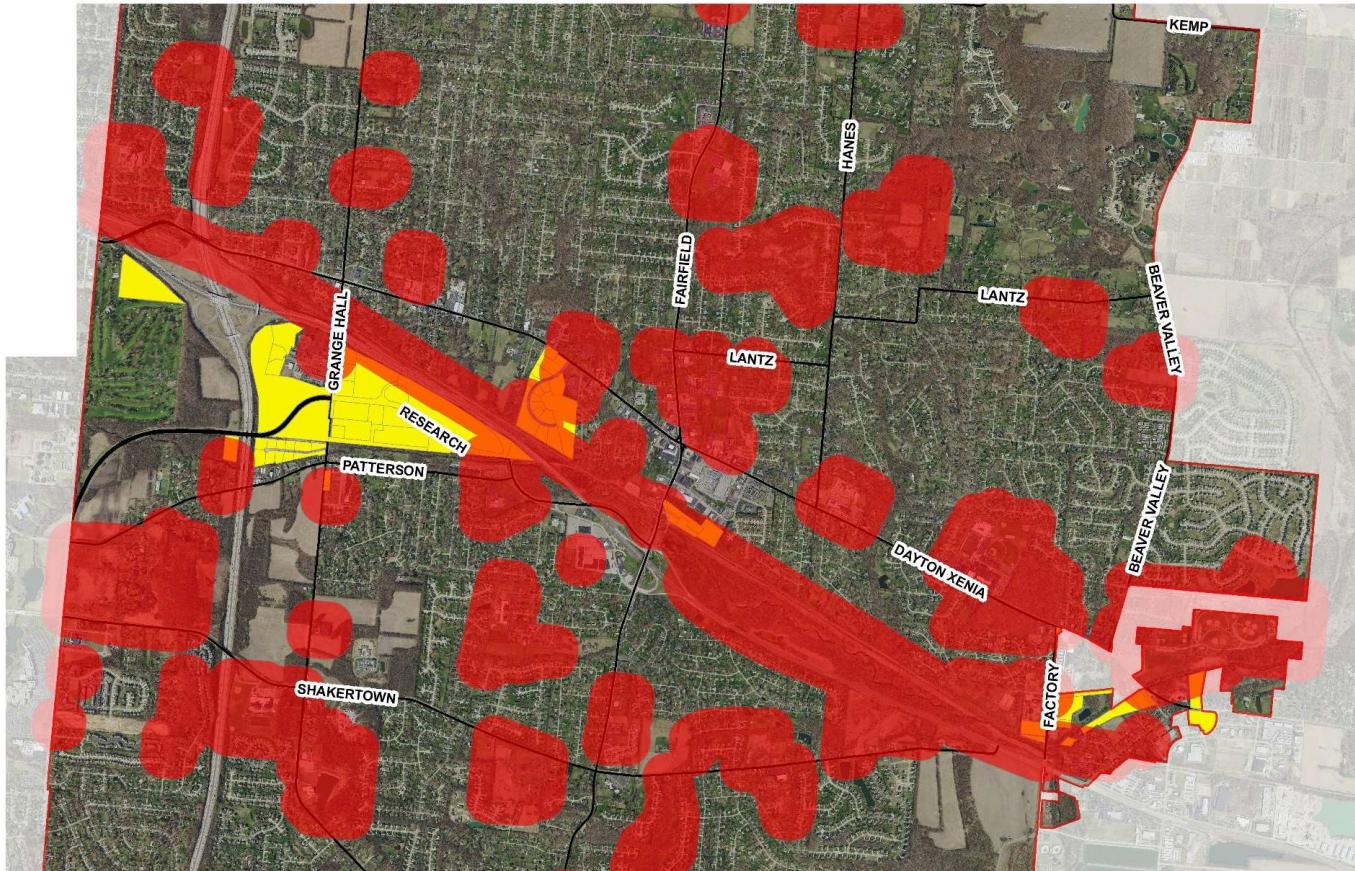
Potential Cultivating Locations South



Medical Marijuana Processing Facility Regulations

- ▶ Definition: 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.
- ▶ A medical marijuana processing facility is a conditional use within an I-1 or I-2 Zoning District. Conditional use shall not be authorized unless the following conditions and the provisions of ' 158.171(C), at a minimum, are be complied with:
 - ▶ (1) Crops, seeds, and byproducts shall be kept inside a secure facility at all times, before, during and after processing.
 - ▶ (2) No medical marijuana processing facility shall be located within 500 feet of the boundaries of a parcel of real estate having a school (including public and private schools, and public and private day care facilities), places of religious assembly, public library, public playground, or public park.

Potential Processing Facilities



Medical Marijuana Testing Facility, Research Facility or Laboratory

- ▶ Definition: A licensed entity that obtains medical marijuana from licensed cultivators, processors, and retail dispensaries to conduct testing on the product. Testing procedures include but are not limited to testing for potency, homogeneity, and contamination and the preparation of a report of test results.
- ▶ These facilities are exempt from local laws and regulations for the most part, especially if associated with a government entity or a private institution of higher learning.

Conditional Use Regulations/Intent

- ▶ (4) Findings. After consideration of the nature and condition of all adjacent and surrounding uses and buildings and a review of the conditional use application and any administrative reports, the Planning Commission shall make, by resolution, the following findings in deciding on the conditional use application:
 - ▶ (a) The proposed conditional use is to be located in a district wherein such use may be conditionally permitted;
 - ▶ (b) The proposed conditional use will not have a substantial or material detrimental effect on surrounding properties and will not have a substantially negative impact on or substantially conflict with surrounding properties; and
 - ▶ (c) Taking into account current vehicular traffic volumes and traffic volumes as may be expected to increase with increasing development of the community, and taking into account vehicular turning movements in relation to routes of traffic flow, street intersections, sight distances and pedestrian traffic, the vehicular traffic to and from the conditional use can be accommodated by the existing street network without significant adverse effect.



Additional Information from 12/1/17 Planning and Zoning Workshop attended by Planning Staff

As provided by Pickrel, Shaeffer & Ebeling Law Firm

An Update on Ohio's Medical Marijuana Law





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Legal Disclaimer

WE ARE NOT GIVING LEGAL ADVICE
JUST EDUCATION ON THE ISSUES AND LAW

What the law and rules are; what they mean;
what are the common issues with this matter;
and what you may expect



Ohio Revised Code Chapter 3796

ORC Sec. 3796.29

Local legislative authority may prohibit, or limit the number of. cultivators, processors, or retail dispensaries licensed

Ohio Administrative Code Chapters 3796:1-3796.8

O.A.C. 3796:3-1-02 (Processors) ; 3796:2-1-02 (Cultivators)

O.A.C. 3796:6-2-02 (Dispensaries)

“any local ordinances, rules, or regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of the application...including.. any required local registration, license or permit of the locality in which the applicant's property is located; (Dispensary)

“all building, fire, safety, and zoning statutes, local ordinances, and rules and regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of the application” (Processor and Cultivator)

Lots of Rules

Ohio Administrative Code

<i>Cultivators, Department of Commerce</i>	O.A.C. 3796:2
<i>Processors, Department of Commerce</i>	O.A.C. 3796:3
<i>Dispensaries, Pharmacy Board</i>	O.A.C. 3796:6
<i>Test Laboratories, Pharmacy Board</i>	O.A.C. 3796:4
<i>Patient/caregiver, Pharmacy Board</i>	O.A.C. 3796:7
<i>Medical Professionals, Medical Board</i>	O.A.C. 4731:32

Regulatory Provisions from the State

Zoning (and possibly regulatory) from Local level

THIS IS NOT YOUR TYPICAL ZONING MATTER

***IT IS A COMMENTARY ON YOUR
COMMUNITY'S MORALITY***

Zoning is for health, safety, **morals** and welfare

Prepare for moral discussions at your meetings

“just because State approved it doesn’t make it right”

Prepare to hear from many points of view:

Veterans ending the Stigma.org (veteran benefits in law)

Local Department of Commerce (temporary construction positions; local hiring preference; rehabilitate outdated buildings; injection of financial capital)

Schools/addiction services

Lots of Opinions, lots of “FACTS”

Basic Facts

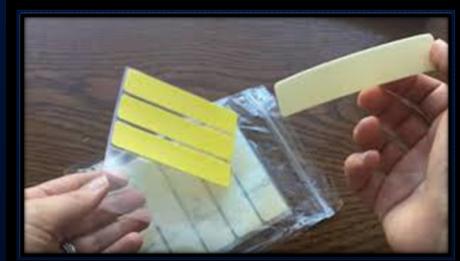
Sec. 3796.01.

21 Qualifying Medical Conditions

- (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.

Basic Facts

Sec. 3796.06. Provides how the medical marijuana will be dispensed (No smoking permitted but vaporization is permitted).



Oils

Tinctures

Plant Material

Edibles

Patches

**Any other form approved
by the Pharmacy Board**

**Cannot be “considered attractive to children,
as specified in rules adopted by the board”**
3796.06(C)



ADVERTISING

Specific Advertising requirements for all facilities (set forth separately under the rules for each use).

No cartoon character, fictional character, or pop culture icon;

Sign size, location and illumination requirements

No advertisements on billboards, radio or television broadcast, on any handheld or other portable sign, On or in a public transit vehicle or public transit shelter, or on or in a publicly-owned or operated property.

With respect to public places, no ads on a handbill, leaflet, or flyer directly handed, deposited, fastened, thrown, scattered, cast, or otherwise distributed to any person;

No handbills left upon any private property without the consent of the property owners;

Basic Facts

Medical Marijuana is a Schedule 1 Drug under the Controlled Substance Act and ILLEGAL under federal law

Schedule 1: (has no medical use, a lack of accepted safety for use under medical supervision, and a high potential for abuse)

Schedule 2: (has a high potential for abuse which may lead to severe psychological or physical dependence)

(Total of 5 schedules)

CULTIVATOR FACTS

Level 1: “a cultivator that is permitted to operate up to twenty-five thousand square footage of space designated as the **marijuana cultivation area** in the application, unless a request for expansion is approved by the director of the department...”

“Level II cultivator” means a cultivator that is permitted to operate up to three thousand square footage of space designated as the **marijuana cultivation area** in the application, unless a request for expansion is approved by the director of the department...”

Beginning September 9, 2018, the **“marijuana cultivation”** area can be increased with a cap of 75,000 square feet for Level I and 9,000 square feet for level II cultivators.

AND THE CULTIVATORS ARE...

Level 1 Provisional Licenses Issued

Buckeye Relief LLC (Eastlake, Lake County)

Grow Ohio Pharmaceuticals LLC (Newton Township, Muskingum County)

OPC Cultivation LLC (Huron, Erie County)

Riviera Creek Holdings LLC (Youngstown, Mahoning County)

Pure Ohio Wellness LLC (Springfield, Clark County)

Columbia Care OH LLC (Mt. Orab, Brown County)

Terradiol Ohio LLC (Canton, Stark County)

Standard Wellness Company LLC (Gibsonburg, Sandusky County)

AT-CPC of Ohio LLC (Akron, Summit County)

Cresco Labs Ohio LLC (Yellow Springs, Greene County)

Parma Wellness Center LLC (Parma, Cuyahoga County)

Harvest Grows LLC (Hamilton Township, Lawrence County)

Harvest Grows LLC (Cleveland, Cuyahoga County)

AND THE CULTIVATORS ARE...

Level 2 Provisional Licenses Issued

1. Fire Rock Ltd. (Columbus, Franklin County)
Fire Rock Ltd. (Canton, Stark County)
Fire Rock Ltd. (Akron, Summit County)
2. FN Group Holdings LLC
(Ravenna, Portage County)
3. Mother Grows Best LLC
(Canton, Stark County)
4. OhiGrow LLC (Toledo, Lucas County)
5. Ancient Roots LLC
(Wilmington, Clinton County)
6. Ohio Clean Leaf LLC (Dayton, Montgomery County)
Ohio Clean Leaf LLC (Carroll, Fairfield County)
7. Ascension BioMedical LLC (Oberlin, Lorain County)
8. Agri-Med Ohio LLC (Langsville, Meigs County)
9. Paragon Development Group LLC
(Huber Heights, Montgomery County)
10. Hemma LLC (Monroe, Butler County)
11. Galenas LLC (Akron, Summit County)
12. Farkas Farms LLC (Grafton, Lorain County)

CULTIVATOR FACTS

Have to establish a Plan as part of the application dealing with production, storage, inventory, and transportation of medical marijuana.

- (1) Designate compartmentalized areas in the facility based on function
- (2) Implement policies for security
- (3) Document chain for all medical marijuana (inventory tracking system)
- (4) Standards for no infestation by rodents, insects, and animals
- (5) Maintain a facility with adequate lighting, ventilation, temperature, sanitation, equipment and security for the safe and consistent cultivation

CULTIVATOR FACTS

There can be "Plant-only processor" a cultivator that has received a license for the limited purposes of packaging, selling, and delivering finished plant material directly to a licensed dispensary for sale to a patient or caregiver.

Watch for zoning provisions that have processors and cultivators (and dispensaries) in different zoning districts.

May provide a dispensary free samples of plant material in a sample jar protected by a plastic or metal mesh screen to allow patients and caregivers to smell the plant material before purchase

CULTIVATOR FACTS

The Rules require a laboratory analysis, profile and a list of all active ingredients, including the percentage content by weight for the following cannabinoids, at a minimum:

- (i) Delta-9-tetrahydrocannabinol (THC);
- (ii) Delta-9-tetrahydrocannabinolic acid (THCA);
- (iii) Cannabidiol (CBD); and
- (iv) Cannabidiolic acid (CBDA);



Marijuana Chemistry 101

Tetrahydrocannabinol (THC) has psychotic effect (gets you high)

Tetrahydrocannabinolic acid (THCA) a biosynthetic precursor of THC with different properties (won't induce psychoactive effects) Smoking (heating THCA turns it into THC)

Cannabidiol (CBD) has effects that do not include getting you high

Cannabidiolic acid (CBDA); a biosynthetic precursor of CBD with different properties

Common uses for THC:

Euphoria and relaxation
Sleep and drowsiness
Appetite stimulant
Painkiller
Muscle relaxant

Common uses for CBD:

Anti-anxiety
Anti-psychotic
Painkiller
Anticonvulsant
Anti-inflammatory

Industrial hemp plants contain high levels of CBD but only trace amounts of THC. Because of this many hemp products are legal to sell and to buy.

CULTIVATOR FACTS

Strict disposal rules of undesired, excess, unauthorized, obsolete, adulterated, misbranded or deteriorated medical marijuana waste

Mandatory inventory control and storage requirements

Weekly inventory reports

Storage only in designated, enclosed, locked facility

Members of law enforcement or local government officials permitted to enter any area of a cultivator if necessary to perform **their** governmental duties.

CULTIVATOR FACTS

Cultivator security (very similar to processor and dispensary security)

Security Requirements include

Security alarm system around the perimeter of the facility

Fencing

Video surveillance recording system (*technical requirements*)

Secured security equipment and video surveillance systems

Outside perimeter kept lit

Restrict access to any area containing medical marijuana

Seed to Sale: Establish and maintain an electronic database to monitor medical marijuana through:
cultivation → processing → testing → dispensing

Must update medical marijuana information instantaneously

CULTIVATOR FACTS

(Basically same for Processor Facilities)

Cameras shall be calibrated and focused to maximize the quality of the recorded image;

Twenty-four hour live feed with motion-activated recording capabilities from all video cameras,

Silent alarm, which can be utilized in the event of a holdup or other instances of duress, which notifies law enforcement;

Panic alarm, which means an audible security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a law enforcement response;

The ability to comply with the security requirements of this rule for a period of at least forty-eight hours during a power outage.

Back-up alarm system approved by the department that shall detect unauthorized entry during times when no employees are present

CULTIVATOR FACTS

3796:2-2-07 A cultivator shall not:

Sell medical marijuana in any form to a patient or caregiver

Permit the consumption of medical marijuana in any form on the premises

Grow a prohibited form of marijuana (must be registered and approved by the state)

Produce or maintain medical marijuana in excess of the quantity required for normal, efficient operation based on patient population and consumption reported in the inventory tracking system.

Change its approved plans or production techniques without written approval

Change the use or occupancy of the facility without written approval

Sell plant material that exceeds thirty-five per cent THC content

PROCESSOR FACTS

Until Sept 8, 2018 up to 40 processor provisional licenses

Beginning September 9, 2018, additional processor provisional licenses may be issued based on population and number of patients seeking to use medical marijuana products

Applications will be accepted December 4, 2017 – December 15, 2017

PROCESSOR FACTS

(Similar to Cultivators)

Applicant must provide evidence that the applicant owns the property on which the proposed processor will be located, has executed a lease for the property that does not contain any use restrictions that would otherwise prevent the processor from operating or has secured the ability to purchase or lease the property that does not contain any use restrictions that would otherwise prevent the processor from operating

A location area map of the area surrounding the proposed processor that establishes the facility is at least “500 feet” from the boundaries of a parcel of real estate having situated on it a “prohibited facility”

“Prohibited Facility” means any school, church, public library, public playground, or public park

“500 feet” is measured linearly and is the shortest distance between the closest point of the property lines of the medical marijuana entity and the prohibited facility. 3796:5-5-01

PROCESSOR FACTS

Processor must provide with application documentation that the applicant is currently in compliance, or will be in compliance prior to the issuance of a certificate of operation, with all building, fire, safety, and zoning statutes, local ordinances, and rules and regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of the application, including but not limited to building department approval demonstrating compliance with rules adopted by the board of building standards pursuant to Chapters 3781 and 3791 of the Revised Code and any applicable zoning considerations. (3796:3-1-02(l))

Same as 3796:2-1-02 (Cultivators)

It's a learning process...

 <p>Ohio Department of Commerce Medical Marijuana Control Program</p> <p>1G Notice of Proper Zoning Form 3796.3-1-02(B)(2)(k)</p> <table border="1"> <tr> <td colspan="3">To be Completed by Applicant</td> </tr> <tr> <td colspan="3">Business Name of Applicant:</td> </tr> <tr> <td colspan="3">Physical Address and Name of Proposed Medical Marijuana Processor Facility:</td> </tr> <tr> <td colspan="2">City:</td> <td>County:</td> </tr> <tr> <td>State:</td> <td>Zip Code:</td> <td>Phone Number:</td> </tr> <tr> <td colspan="3">To be Completed by Zoning Authority or Local Government</td> </tr> <tr> <td colspan="3">Jurisdiction of Zoning Office or Local Government</td> </tr> <tr> <td colspan="3">Moratorium (Required to check one box)</td> </tr> <tr> <td colspan="3"> <input type="checkbox"/> The area of _____ HAS NOT enacted a local moratorium or taken other action that would prohibit the applicant from operating as a medical marijuana Processor. 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<input type="checkbox"/> The area of _____ has no zoning in place at this time.																																																																																					
Printed Name of Authorized Zoning Representative:		Title:																																																																																			
Signature:																																																																																					

MMCP-P-1001A (v1.0), Ohio Processor Application – Filing/Identifiers

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MMCP-C-1001A (v1.1), Ohio Cultivator Application – Filing/Identifiers

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PROCESSOR FACTS

No one can have more than one processor provisional license or processor certificate of operation at any time.

No one can have a financial interest in or be an owner, partner, officer, director, shareholder, member, or other person who may significantly influence or control the activities of more than one processor.

Once a provisional license is issued, applicant has 6 months to obtain a certificate of operation. (cultivators have 9 months).

PROCESSOR FACTS

Processor must ensure that a consistent supply of medical marijuana is available

- (1) Not more than thirty days elapsing between shipments totaling at least one lot of medical marijuana products to any licensed dispensaries. or
- (2) Maintaining an inventory of at least five hundred grams of medical marijuana extract that is ready for immediate use in the manufacture of marijuana products.

[5 grams is just over 1 pound]

PROCESSOR FACTS

Processor (and Cultivator) Licenses must be renewed annually

PROCESSOR FACTS

Processors must:

Only use the methods, equipment, solvents, and gases set forth in the rules in the manufacture of medical marijuana products.

Comply with all applicable OSHA regulations as well as comply with and pass inspection for any applicable fire, safety, and building codes pertaining to the use and storage of the equipment and solvents used in the manufacture of medical marijuana products.

Preempt local environmental regulations?

PROCESSOR FACTS

Processor Security (like cultivator security) is to be determined by the Department of State. 3796:3-2-05 (Cultivator 3796:2-2-05)

“The department shall determine the appropriate storage and security requirements for all processor facilities, and may require additional safeguards to ensure the security of medical marijuana.”

(Arguably this may pre-empt local security regulations)

PROCESSOR FACTS

3796:3-2-07 A processor shall not:

Sell medical marijuana in any form to a patient or caregiver.

Permit the consumption of medical marijuana in any form on the premises.

Process or manufacture a prohibited form of marijuana

Manufacture medical marijuana products that exceed seventy per cent THC content
Change its approved operations plan or manufacturing techniques without written approval

Produce or maintain medical marijuana in excess of the quantity required for normal, efficient operation based on patient population and consumption reported in the inventory tracking system.

Discriminate in price between different dispensary facilities

Change the use or occupancy of the facility without written approval

DISPENSARY FACTS

60 licenses to be granted originally

Deadline for applications was November 17

370 applications- State divided into 4 quadrants

NW (Toledo) 10 licenses; NE (Cleveland) 18 licenses;
SE (Columbus) 17 licenses; SW (Dayton) 15 licenses;

List of Applicants:

<https://www.medicalmarijuana.ohio.gov/Documents/Dispensaries/Dispensary%20Application%20Resources/Medical%20Marijuana%20Dispensary%20Applicants.pdf>

DISPENSARY FACTS

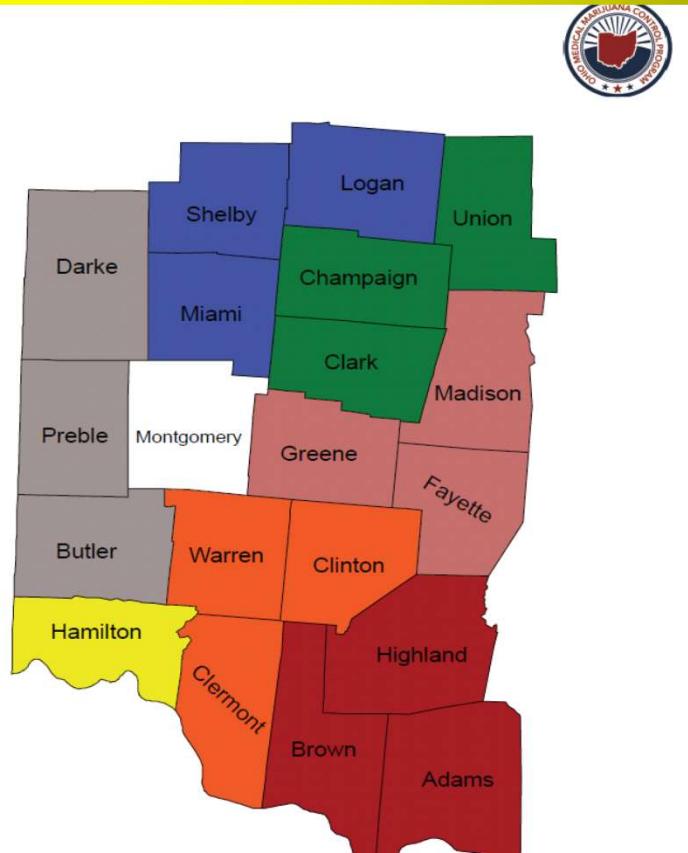


STATE OF
OHIO
BOARD OF PHARMACY

SOUTHWEST

15 Total Dispensaries

- SW DISTRICT 1 - 3 Dispensaries
- SW DISTRICT 2 - 2 Dispensaries
- SW DISTRICT 3 - 2 Dispensaries
- SW DISTRICT 4 - 3 Dispensaries
- SW DISTRICT 5 - 1 Dispensary
- SW DISTRICT 6 - 1 Dispensary
- SW DISTRICT 7 - 1 Dispensary
- SW DISTRICT 8 - 2 Dispensaries



DISPENSARY FACTS

Moratorium “ will lead to disqualification of the application”

Application must set forth the proposed hours of operation. Under 3796:6-3-03 a dispensary **public hours** are between 7 am and 9 pm

Dispensary's must be open for a minimum of 35 hours a week and must have at least 2 employees physically present at the dispensary during all open hours. Once awarded a provisional license, application has 180 days to commence operations.

A certificate of operation is for a single location.

No owner can have more than 5 dispensary certificates of operation at any time, (unless authorized by the state board of pharmacy after an analysis supporting the licensing of greater than sixty dispensaries)

DISPENSARY FACTS

In awarding a license the board must consider the location for the proposed dispensary including, but not limited to:

- (a) Its proximity to previously approved dispensaries or pending dispensary applications;
- (b) Whether the registered patient population in the area proposed by the dispensary license applicant justifies the need for a dispensary or an additional dispensary in that area; and
- (c) Whether the number of dispensaries in the locality is such that the granting of a license is detrimental to the public interest.

(Is this a State acknowledgement that multiple facilities in a given area may be problematic?)

***WATCH HOW YOU DESIGNATE THIS USE-
ACCESSORY USE? STAND ALONE?***

DISPENSARY FACTS

3796:6-4-03 Grounds for discipline.

State may revoke/suspend or take other action for 46 conditions, including a catch all,

(6) conviction of a misdemeanor or felony related to, or committed in, any function related to the operation of a dispensary;

(A zoning violation is often a misdemeanor violation)

(36) Engaged in any pattern of activity that causes harm to the community;

(46) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under Chapter 3796. of the Revised Code or this division.

A dispensary is responsible to the state or local governmental entity for all expenses incurred by the state or local governmental entity in the following:

(1) Cleaning up, mitigating or remedying any environmental damage caused by the dispensary; and (2) Administrative costs for investigation and prosecution.

DISPENSARY EMPLOYEES

ALL Employee must be licensed (3796:6-2-09)

Employees are to use judgment to determine whether to dispense if he/she suspects that the medical marijuana may have negative health or safety consequences for the patient or for the public, or when the patient is exhibiting signs of potential abuse or diversion. 3796:6-3-08

May dispense any portion of a patient's ninety-day supply of medical marijuana.

Must verify the validity of the patient or caregiver's registration

Confirm that each recommendation is complete.

DISPENSARY EMPLOYEES

Employees and the Medical Marijuana Recommendation (Prescription)

A complete recommendation contains the following:

- (a) Patient full name;
- (b) Patient residential address;
- (c) Patient telephone number;
- (d) Patient date of birth;
- (e) Patient qualifying condition;
- (f) State-issued identification number (such as driver's license number), or United States passport number;
- (g) Patient registration number issued by the state board of pharmacy;
- (h) Recommending physician's full name (first name and last name);
- (i) Physician's drug enforcement administration identification number;
- (j) Recommending physician's medical license number issued by the state medical board;
- (k) Recommending physician's certificate to recommend identification issued by the state medical board;
- (l) Date recommendation was issued by the recommending physician;
- (m) Recommending physician's business address, telephone number, and email address;
- (n) Indication whether the recommendation is new or a refill;
- (o) Number of the refill being dispensed; and
- (p) Date order written, which shall be the date the written recommendation was issued.

THE STRENGTH? STRAIN? AMOUNT?

DETERMINED BY EMPLOYEE

DISPENSARY EMPLOYEES

3796:6-3-10 A dispensary shall transmit electronically to the state board of pharmacy, in a format suitable to the board, the information set forth below within five minutes of the dispensing of any and all medical marijuana:

- (1) State license number, which shall be populated by a number provided by the board;
- (2) Dispensary name;
- (3) Dispensary address;
- (4) Dispensary telephone number;
- (5) Patient full name;
- (6) Patient registry identification number;
- (7) Patient residential address;
- (8) Patient telephone number;
- (9) Patient date of birth;
- (10) Patient gender;
- (11) Recommending physician's full name (first name and last name);
- (12) Drug enforcement administration physician identification number;
- (13) Date recommendation was issued by the recommending physician;
- (14) Indication whether the recommendation is new or a refill;
- (15) Number of the refill being dispensed;
- (16) Date order filled, which shall be the date medical marijuana is dispensed;
- (17) Order number, which shall be the serial number assigned to each medical marijuana product dispensed to a patient;
- (18) Quantity;
- (19) Days' supply;
- (20) Product identifier, which shall be assigned by the board;
- (21) Date order written, which shall be the date the written recommendation was issued;
- (22) Payment code for either cash or third-party provider; and
- (23) Drug name, which shall be the brand name of the medical marijuana.

DISPENSARY EMPLOYEES

All Employees

Are responsible to monitor for suspicious recommendations, unusual usage, or questionable disposition

Must notify the State upon discovery of any fraudulent or otherwise unlawful recommendation

Must notify the State of any “serious adverse events related to security and administration of medical marijuana, that a dispensary employee knows or should know” twenty-four hours.

DISPENSARY FACTS

DISPENSARY must have policies to provide patient and caregivers

- (1) Updated information about the purported effectiveness of various forms and methods of medical marijuana administration;
- (2) Updated information about the purported effectiveness of strains of medical marijuana for specific conditions;
- (3) Information regarding the signs and symptoms of substance abuse, including tolerance, dependency, and withdrawal;
- (4) Whether possession of medical marijuana is illegal under federal law;
- (5) Information about possible side effects and contraindications for medical marijuana including possible impairment with use and operation of a motor vehicle or heavy machinery, when caring for children, or of job performance;
- (6) Guidelines for contacting the recommending physician if side effects or contraindications occur;
- (7) A warning that smoking of medical marijuana is not permitted per Ohio law;
- (8) Information on drug-to-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements;
- (9) Safe techniques for the proper use of medical marijuana and medical marijuana paraphernalia;
- (10) Information regarding prohibition against and dangers associated with medical marijuana extractions;
- (11) Alternative methods and forms of consumption or inhalation by which one can use medical marijuana;
- (12) Instruction for medical marijuana-related inquiries or reports of adverse reactions to the toll-free telephone line
- (13) Signs and symptoms of substance abuse; and
- (14) Opportunities to participate in substance abuse programs.

Dispensary cannot include in its education policy, instruction for patients or caregivers to cut or otherwise partition medical marijuana patches as appropriate preparation for transdermal administration.

DISPENSARY PROHIBITIONS

No dispensary employee may share office space with, compensate, receive compensation from, or refer patients to a physician holding a certificate to recommend or allow such physician to examine a patient or any follow up care for purposes of diagnosing or treating a qualifying medical condition at the dispensary.

No dispensary shall sell anything other than authorized medical marijuana, medical marijuana products, medical marijuana devices, and advertising materials authorized pursuant to rule 3796:6-3-24 of the Administrative Code.

No dispensary shall offer coupons except in the case of coupons intended to benefit patients registered as indigent or as a veteran.

No medical marijuana or medical marijuana products shall be consumed on the premises of a dispensary.

Dispensary must make publicly available the price of all medical marijuana products offered by the dispensary to prospective qualifying patients and caregivers.

DISPENSARY PROHIBITIONS

No food or beverages shall be consumed by public on the premises of a dispensary

No dispensary shall produce or manufacture medical marijuana or medical marijuana products

No dispensary shall operate a drive through window (pickup unit).

No dispensary shall transport medical marijuana or medical marijuana products to residences of patients or caregivers.

No dispensary shall operate if its surveillance equipment is inoperable.

No dispensary shall sell or otherwise distribute clothing, apparel, or wearable accessories to public

No medical marijuana or paraphernalia can be visible from exterior of the dispensary

DISPENSARY FACTS

3796:6-4-10 Variances.

- (A) The state board of pharmacy may grant variances from this division in cases in which:
 - (1) The applicable provision is not statutorily mandated;
 - (2) Granting the variance will not be contrary to public interest;
 - (3) No party will be injured by the granting of the variance; and
 - (4) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- (B) An approval for a variance may be revocable, may be granted for a limited period or may be granted subject to the conditions as the state board of pharmacy may prescribe.

(Ohio Admin. Code 3796:6-4-10)

PATIENT AND CAREGIVER FACTS

3796:7-2-01 To qualify a prospective patient must:

- (1) Establish and maintain a bona fide physician-patient relationship with a recommending physician who shall submit a complete patient registration submission;
- (2) Receive a diagnosis or confirmation of a qualifying condition from the recommending physician;
- (3) Consent to treatment with medical marijuana. If the patient is a minor, the prospective patient's parent or legal representative shall consent to treatment with medical marijuana;
- (4) Remit to the state board of pharmacy the required fee; and
- (5) Unless otherwise provided pursuant to a reciprocal agreement under division (A) of section 3796.16 of the Revised Code, be an Ohio resident.

PATIENT AND CAREGIVER FACTS

3796:7-2-02 Caregiver eligibility.

Must be a natural persons, at least 21, cannot be caregiver for more than 2 patients. (a patient can have up to 2 caregivers)

(Recommending physician cannot serve as the patient's caregiver

Caregiver application will be denied if Caregiver is in:

- (1) The system for award management (SAM) maintained by the United States general services administration;
- (2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services
- (3) The Ohio department of developmental disabilities (DODD) online abuser registry
- (4) The internet-based sex offender and child-victim offender database
- (5) The national sex offender public website
- (6) The internet-based database of department of rehabilitation and correction inmates
- (7) The state nurse aide registry established under section 3721.32 of the Revised Code, and there is a statement detailing findings by the director of health that the provider applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident

PATIENT AND CAREGIVER RULES

Cannot engage in the cultivation unless authorized cultivator

Cannot accept free samples of medical marijuana

Cannot possess or administer medical marijuana on federal property or in federal buildings

Cannot possess or administer medical marijuana at any public or private place where medical marijuana is prohibited

Must only purchase from a medical marijuana dispensary

Must store medical marijuana in a secure location so as to prevent theft, loss, or access by Unauthorized persons

Must carry registry identification when they are in possession of medical marijuana

Must maintain medical marijuana in original package with an unaltered dispensary label or a container provided by a dispensary

Must dispose of all medical marijuana within seven calendar days of the expiration of their registration

Patient Cannot operate a vehicle, streetcar, trackless trolley, watercraft, or aircraft under the influence of medical marijuana

Caregiver cannot receive payment or other compensation other than reimbursement for reasonable expenses incurred

MEDICAL PROVIDERS FACTS

Applicant must

Hold active unrestricted license to practice medicine and surgery or osteopathic medicine and surgery

Have access to the drug database established and maintained by the board of pharmacy

Hold an active registration with the drug enforcement administration

Have completed 2 hours of continuing medical education in a course

(a) Diagnosing qualifying medical conditions

(b) Treating qualifying medical conditions with medical marijuana,

Not have been denied a license to prescribe, possess, dispense, administer, supply, or sell a controlled substance or had one restricted or have been subject to disciplinary action for inappropriate prescribing, personally furnishing, dispensing, diverting, administering, supplying or selling a controlled substance or other dangerous drug.

Applicant cannot have ownership or investment interest in or compensation agreement with any medical marijuana entity

MEDICAL PROVIDERS FACTS

Local hospital groups may have rules restricting its physicians from recommending

No medical professionals at dispensary

Recommendation is maxed at 1 year (90 day initial and 3 refills)

State conducted Survey of 46,000 licensed doctors; 3,000 responded:

26.76% likely to recommend

43.42% unlikely to recommend

29.82% neutral or not respond to question

What don't we know?

FEDERAL LAW ISSUES

[Still] Unknown

Federal Law issues:

1. Non enforcement currently (funding cut)

THC based medication dronabinol (Marinol ®) and nabilone (Cesamet ®) for nausea in Chemo patients and stimulate appetite with Aids. CBD-based liquid called Epidiolex being considered in US.

2. Federal penalties such as private seizure or public economic sanctions (grant funding)

3. Cash and Banking

Moratorium Reminders

- 1. Can result in denial of application at State level**
- 2. Moratoriums are for limited duration and you need to work on issue during that time.**

Planning Considerations

1. Hard to compare to other states
2. Info available from both perspectives.
3. Hotter opinions than you may think
4. Conditional use v. permitted use
5. Cross over use.
6. Similar uses.

Planning Considerations

1. Economic Development
2. Community Attitude
3. Future Recreational Use
4. Start Up Industry/Empty Buildings
5. JEDDS

Local Government Considerations

Employer (including public employers) can prohibit its use while on the job (may change with CBD) Still considered a safety issue

You may need to update your drug free workplace policy and drug testing policy

How to get updates

<http://www.medicalmarijuana.ohio.gov/>





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