

**REGULAR COUNCIL MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
TO BE HELD ON TUESDAY, August 23, 2022
7:30 P.M.**

A. ROLL CALL OF MEMBERS

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF MINUTES OF PRECEDING MEETINGS:

SPECIAL CAUCUS MINUTES FOR MARCH 24, 2022
SPECIAL COUNCIL MINUTES FOR MARCH 24, 2022
SPECIAL CAUCUS MINUTES FOR MARCH 29, 2022
SPECIAL COUNCIL MINUTES FOR MARCH 29, 2022

D. REPORTS OF STANDING COMMITTEES:

Aviation & Environmental Committee – Chairman, Poindexter
Finance Committee - Chairman, Scott
Legislative Committee - Chairwoman, Coyne
Parks & Recreation Committee - Chairman, Mencini
Planning Committee - Chairman, Troyer
Safety Committee - Chairman, Roberts
Service Committee - Chairman, Poindexter
Board of Zoning Appeals - Chairman, Salvatore

E. REPORTS OF SPECIAL COMMITTEES:

Southwest General Health Center Trustee, Mencini
Berea Board of Education Representative, Coyne
Technology & Innovation Council Representative, Poindexter

F. REPORTS OF BOARDS AND COMMISSIONS:

G. INTRODUCTION OF RESOLUTIONS OF COMMENDATION:

H. REPORTS AND COMMUNICATIONS FROM THE MAYOR:

**I. REPORTS AND COMMUNICATIONS FROM DEPARTMENTS,
COMMISSIONS, AND OTHER PUBLIC OFFICIALS:**

J. OTHER COMMUNICATIONS AND PETITIONS, AND VERBAL APPROVAL: (INTRODUCTION OF NEW LEGISLATION):

K. MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:

Planning Commission-Holly Klinger- Per Mayor Orcutt

L. REMARKS FROM THE AUDIENCE ON ANY SUBJECT MATTER:

M. ORDINANCES AND RESOLUTIONS: (FIRST READING):

N. SECOND READING OF ORDINANCES AND RESOLUTIONS:

1. ORDINANCE NO: 11271-2022

AN ORDINANCE AMENDING SECTION 333.03 (J) (3) OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.' AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

O. THIRD READING OF ORDINANCES AND RESOLUTIONS:

1. ORDINANCE NO: 11269-2022

AN ORDINANCE ENACTING CHAPTER 1126 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'MEDICAL MARIJUANA DISPENSARIES', AND DECLARING AN EMERGENCY. Introduced by Councilman Troyer.

2. ORDINANCE NO: 11270-2022

AN ORDINANCE ENACTING CHAPTER 720 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'MEDICAL MARIJUANA OPERATIONS', AND DECLARING AN EMERGENCY. Introduced by Councilman Troyer.

Note: EXECUTIVE SESSION – PERSONNEL MATTERS (POLICE); SALE OF PROPERTY; PENDING OR IMMINENT COURT ACTION; COLLECTIVE BARGAINING MATTERS -MAYOR ORCUTT.

P. ADJOURNMENT:

SYNOPSIS OF ORDINANCES AND RESOLUTIONS
FOR THE COUNCIL MEETING OF August 23, 2022

SECOND READING:

Ord. No. 11271-2022 AN ORDINANCE AMENDING SECTION 333.03(j)(3) OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.', AND DECLARING AN EMERGENCY.

SYNOPSIS: An ordinance to align our Code with the Ohio Revised Code speeding regulations within construction zones, to double fines when workers are active.

THIRD READING:

Ord. No. 11269-2022 AN ORDINANCE ENACTING CHAPTER 1126 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'MEDICAL MARIJUANA DISPENSARIES', AND DECLARING AN EMERGENCY.

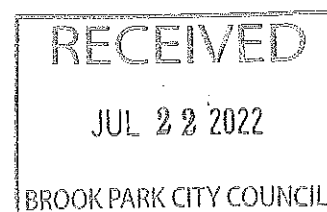
SNOPSIS: An ordinance to regulate the medical marijuana dispensaries in the City and to establish reasonable and uniform regulations.

Ord. No. 11270-2022 AN ORDINANCE ENACTING CHAPTER 720 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'MEDICAL MARIJUANA OPERATIONS', AND DECLARING AN EMERGENCY.

SYNOPSIS: An ordinance to establish reasonable limitations on medical marijuana operations within the City to control and minimize any negative secondary effects.

PREPARED BY THE BROOK PARK LEGAL DEPARTMENT

July 21, 2022



CITY OF BROOK PARK, OHIO

ORDINANCE NO: 11271-2022

INTRODUCED BY: MAYOR ORCUTT

P/C 6-21-22 legislative
CA: _____
1st R 7-19-22
2nd R 8-23-22
3rd R _____
B/C _____

AN ORDINANCE
AMENDING SECTION 333.03(j)(3)
OF THE BROOK PARK CODIFIED ORDINANCES
ENTITLED 'MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.'
AND DECLARING AN EMERGENCY

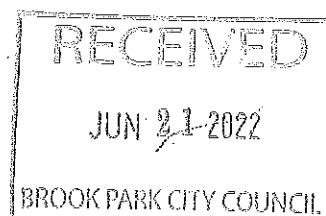
NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: Section 333.03(j)(3) of the Codified Ordinances of the City of Brook Park is hereby amended to read as follows:

(3) Notwithstanding division (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, and when a violation occurs during hours of actual work within the construction zone, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division and if the court determines that the offender is an indigent person and unable to pay the fine.

SECTION 2: Former Section 333.03(j)(3) of the Brook Park Codified Ordinances as enacted in accordance with Ohio Revised Code 4511.21(P), is hereby expressly repealed.

SECTION 3: It is 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 all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.



SECTION 4: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason of amending Section 333.03(j)(3) of the Brook Park Codified Ordinances; therefore, provided this ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____



PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council


APPROVED: _____



MAYOR

DATE

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS



DIRECTOR OF LAW

CITY OF BROOK PARK, OHIO

ORDINANCE NO: 11269-2022

INTRODUCED BY: COUNCILMAN TROYER

8-24-21 legislative
CA Prior 9-7-21
1st R 6-21-22
2nd R 7-19-22
3rd R 8-23-22
B/C 9-7-21
Cancels 2-8-22

AN ORDINANCE

ENACTING CHAPTER 1126 OF THE BROOK PARK CODIFIED ORDINANCES
ENTITLED 'MEDICAL MARIJUANA DISPENSARIES', AND DECLARING AN
EMERGENCY

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of
Brook Park, State of Ohio, that:

SECTION 1: Chapter 1126 of the Brook Park Codified
Ordinances, entitled "Medical Marijuana Dispensaries" is hereby
enacted to read as follows:

CHAPTER 1126

Medical Marijuana Dispensaries

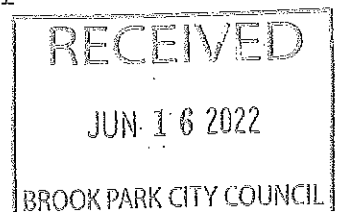
1126.01 PURPOSE.

It is the purpose of this chapter to regulate medical
marijuana dispensaries in order to promote the health,
safety, morals, and general welfare of the citizens of
the City and to establish reasonable and uniform
regulations to prevent the deleterious location and
concentration of medical marijuana dispensaries within
the City.

1126.02 DEFINITIONS.

For purposes of this chapter,

- (a) "Medical marijuana" shall have the same meaning as in
R.C. 3796.01.
- (b) "School," "church," "public library," "public
playground," "public park" and "recreation center"



(c) No medical marijuana dispensary may be established, operated or enlarged within one half mile of another medical marijuana dispensary.

(d) Not more than one medical marijuana dispensary shall be established or operated in the same building, structure, or portion thereof.

(e) For the purpose of subsections (b) and (c) of this section, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a medical marijuana dispensary is conducted, to the nearest property line of the premises of a medical marijuana dispensary or a school, recreation center, church, public library, public playground, or public park.

(f) Rules, regulations and local permitting requirements imposed on a licensee by the City shall be interpreted in all instances to conform to the state licensing requirements for dispensaries, but in the event the City's rules, regulations and permitting requirements impose a greater obligation on a licensee than the state licensing requirements, the local provisions shall be enforced.

(g) Applicants must meet any additional criteria and fulfill any additional requirements associated with obtaining a conditional use permit in the City. The City shall review all qualifying applications at a reasonable pace and level of review equivalent to other land use projects requiring a conditional use permit.

1126.04 OFF-STREET PARKING.

Off-Street parking for a medical marijuana dispensary shall be provided, pursuant to the zone that they shall be located in and the Planning Commission, except that the

shall have the same meanings as is R.C. 3796.30.

(c) "Dispensary" shall have the same meaning as in Ohio Admin. Code 3796:1-1-01 or subsequent similar regulations.

(d) "Licensee" means a person in whose name a license to operate a medical marijuana dispensary has been issued under Chapter 720, as well as the individual(s) designated on the license application as principally responsible for the operation of the medical marijuana dispensary.

(e) "Operate" means to control or hold primary responsibility for the operation of a medical marijuana dispensary, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "cause to be operated" shall mean to cause to function or to put or keep in operation. Operator means any persons on the premises of a medical marijuana dispensary who is authorized to exercise overall operational control or hold primary responsibility for the operation of a medical marijuana dispensary or who causes to function or who puts or keeps in operation the business. A person may be found to be operation or causing to be operated a medical marijuana dispensary whether or not that person is an owner, part owner, or licensee of the business.

(f) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

1126.03 LOCATION OF MEDICAL MARIJUANA DISPENSARIES.

(a) Medical marijuana dispensaries may be located only in U-7A Districts and conditionally permitted use pursuant to Section 1121.34 and in accordance with the restrictions contained in this chapter.

(b) No medical marijuana dispensaries may be established or operated within 1,000 feet of a school, church, public library, public playground, recreation center or public park in the City.

Commission may require an off-street parking plan.

1126.05 SIGN REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES.

(a) All signs for a medical marijuana dispensary shall be wall signs or window signs as defined in Chapter 1123 of the Brook Park Codified Ordinances and approved by the Planning Commission and shall be constructed and located in conformance with all applicable provisions of Chapter 1123 of the Brook Park Codified Ordinances.

(b) All signs for a medical marijuana dispensary shall be maintained in accordance with Section 1123 of the City Code and may be ordered to be removed in accordance with the provisions of that Chapter.

(c) No merchandise or pictures of the products on the premises of a medical marijuana dispensary shall be displayed on signs, in window areas or any area where they can be viewed from the sidewalk or street in front of the building. No sign shall bear any image depicting or describing a marijuana leaf or the combustion of plant material, whether by means of display, decoration, sign, window or any other means.

(d) Window areas of a medical marijuana dispensary shall not be covered or made opaque in any way. A one-square-foot sign shall be placed on the door to state hours of operation. Additional signage to conform to the requirements Section 720.16 may be permitted.

1126.06 LICENSING.

Medical marijuana dispensaries as described in Section 1126.02 herein shall be licensed and operated pursuant to Chapter 720.

1126.07 HEARING; RENEWAL; REVOCATION.

(a) Notwithstanding anything in this chapter or section to the contrary, any conditional use permit application for a medical marijuana dispensary shall be heard by the Planning Commission and, if approved, shall expire 12 months from the date of issuance. Subsequent renewal of the conditional use permit may be made administratively by the Safety Director if no significant modifications to the conditions of the permit have been proposed and no violations have been determined. Violations may include, for example, legitimate loitering complaints, excessive police calls to the immediate vicinity, noise complaints, non-compliance with the terms of the conditional use permit, or non-compliance with other applicable state or local regulation. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to revocation or suspension.

(b) Determination of administrative renewal is at the discretion of the Safety Director. Renewal applications must be submitted in writing at least 30 days prior to expiration of permit.

(c) The conditional use permit for a medical marijuana dispensary is non-transferable.

(d) Notwithstanding anything in this chapter or section to the contrary, any conditional use permit granted for a medical marijuana dispensary may be revoked by the Planning Commission after referral to the Planning Commission by the Director and after a public hearing on whether violations have occurred or the spirit and intent of the conditional use permit has not been met. Notice of such hearing shall be sent to the licensee and to others pursuant to Section 1173.07(b)(2) of this Code as if a zoning change were requested.

1126.08 SEVERABILITY.

If any section, subsection, or clause of this

chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

1126.99 PENALTY.

- (a) Violations of this chapter for which no penalty is specified shall be unclassified misdemeanor offenses punishable by fine or imprisonment, as provided in Section 501.99 of the Codified Ordinances of the City of Brook Park.
- (b) Each day that a medical marijuana dispensary operates in violation of this chapter is a separate offense.

SECTION 2: It is 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 all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to enact Chapter 1126 of the Park Codified Ordinances; therefore, provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council. It shall take effect and be in force immediately from and after its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

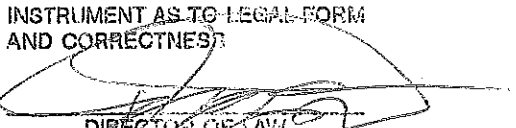
PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

APPROVED: _____
MAYOR

DATE

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS


DIRECTOR OF LAW

8-24-21 Legislative
Prior 9-7-21
6-21-22
7-19-22
8-23-22
9-7-21
Caucus 2-8-22

CITY OF BROOK PARK, OHIO

ORDINANCE NO: 11270-2022

INTRODUCED BY: COUNCILMAN TROYER

AN ORDINANCE

ENACTING CHAPTER 720 OF THE BROOK PARK CODIFIED ORDINANCES
ENTITLED 'MEDICAL MARIJUANA OPERATIONS', AND DECLARING AN EMERGENCY

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park,
State of Ohio, that:

SECTION 1: Chapter 720 of the Brook Park Codified Ordinances, entitled
"Medical Marijuana Operations" is hereby enacted to read as follows:

CHAPTER 720

Medical Marijuana Operations

720.01 PURPOSE. The purposes of this chapter are to establish
limitations on medical marijuana operations within the City and to
establish reasonable and uniform regulations to minimize and
control the negative secondary effects of medical marijuana
dispensaries within the City, all in order to promote the health,
safety, and welfare of the citizens of the City.

720.02 DEFINITIONS.

For purposes of this chapter;

(a) "Medical marijuana" shall have the same meaning as in R.C.
3796.01.

(b) "School," "church," "public library," "public playground,"
and "public park" shall have the same meanings as in R.C.
3796.30.

(c) "Disqualifying offense," "cultivator," "processor" and
"dispensary" shall have the same meanings as in Ohio Admin. Code
3796:1-1-01 or subsequent similar regulations.

(d) "Licensee" means, with respect to a medical marijuana
dispensary license issued under this chapter, a person in whose
name a license to operate a medical marijuana dispensary has been
issued, as well as the individual(s) designated on the license
application as principally responsible for the operation of the

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medical marijuana dispensary.

(e) "Operate" means to control or hold primary responsibility for the operation of a medical marijuana dispensary, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "cause to be operated" shall mean to cause to function or to put or keep in operation. Operator means any persons on the premises of a medical marijuana dispensary who is authorized to exercise overall operational control or hold primary responsibility for the operation of a medical marijuana dispensary or who causes to function or who puts or keeps in operation the business. A person may be found to be operation or causing to be operated a medical marijuana dispensary whether or not that person is an owner, part owner, or licensee of the business.

(f) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(g) "Transfer of ownership or control" of a medical marijuana dispensary shall mean any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(h) "Director" shall mean the Director of Public Safety, "Commissioner" shall mean the Building Commissioner, and "Chief" shall mean the Chief of Police of the City.

720.03 APPLICABILITY.

Businesses subject to this chapter are medical marijuana cultivators, processors and dispensaries.

720.04 PROHIBITION ON CERTAIN MEDICAL MARIJUANA OPERATIONS.

No person shall operate a medical marijuana cultivator or processor in the City. Any person who violates this section shall be guilty of a misdemeanor of the first degree.

720.05 MEDICAL MARIJUANA DISPENSARY LICENSE REQUIRED.

(a) No person shall operate a medical marijuana dispensary without a valid medical marijuana dispensary license issued by the City pursuant to this chapter.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor of the first degree.

720.06 MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION.

(a) An application for a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(b) An application for a medical marijuana dispensary license shall identify and be signed by the following persons:

(1) If the business entity is owned by an individual, that individual.

(2) If the business entity is owned by a corporation, each officer or director of the corporation, any individual owning or controlling more than 50 percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed medical marijuana dispensary or greater ownership interest in the corporation.

(3) If the business entity is owned by a limited liability company, each member of the limited liability company, and any person who will be principally responsible for the operation of the proposed medical marijuana dispensary on behalf of the limited liability company.

(4) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed medical marijuana dispensary.

(c) An application for a medical marijuana dispensary license

must designate one or more individuals to be principally responsible for the operation of the proposed medical marijuana dispensary, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed medical marijuana dispensary on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.

(d) An application for a medical marijuana dispensary license shall be completed according to the instructions of the application form, which shall require the following:

(1) If the applicant is:

- A. An individual, state the legal name and any aliases of such individual;
- B. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or

C. A joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or

D. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.

E. A limited liability company, state the complete name of the limited liability company and the date of its organization, provide evidence that the company is in good standing under the laws of its state of organization, and state the names of all members, the name of the registered statutory agent, and the address of the registered office for service of process.

(2) If the applicant intends to operate the medical marijuana dispensary under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.

(3) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof,

has been convicted of a disqualifying offense, and if so, the specified offense and the date, place, and jurisdiction of each such conviction.

(4) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the medical marijuana dispensary for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director or 10 percent or greater owner of a corporation licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.

(6) State the location of the proposed medical marijuana dispensary, including a legal description of the property, street address, and telephone number(s), if any.

(7) State the mailing address and residential address of each applicant and each person signing the application.

(8) Submit a current, valid retail dispensary license or provisional dispensary license issued to the applicant by the state board of pharmacy under the provisions of R.C. Chapter 3796 and the regulations promulgated thereunder, or evidence that the applicant has made application for such a license or provisional license to the state board of pharmacy.

(9) Submit a security plan for review and approval by the Chief. The security plan shall be on a form or in a manner prescribed by the Chief and shall include, at a minimum, a lighting plan that identifies how the interior, facade, adjoining sidewalks, parking areas and immediate surrounding areas of the dispensary will be illuminated and how the lighting will deflect light away from adjacent properties; and an identification of operable cameras, alarms, security guards and other security measures to be present on the premises whether during or outside business hours. The security plan should address the applicant's use of off-street parking and proposed use of armed security guards, video surveillance and door, building and parking lot

security as appropriate. The applicant shall supply all additional information requested by the Chief necessary for the Chief to evaluate the security plan.

- (10) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.
- (11) Submit proof that each applicant who is a natural person is at least 18 years old.
- (12) Submit a sketch or diagram showing the configuration of the premises of the medical marijuana dispensary. The diagram shall also designate the place at which the dispensary license will be conspicuously posted, if issued. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

720.07 ISSUANCE OF MEDICAL MARIJUANA DISPENSARY LICENSE.

- (a) Within five days of receipt of an application for a medical marijuana dispensary license, the Director shall notify the Commissioner and the Chief of such application. In making such notification, the Director shall request that the Chief promptly investigate the information provided in the application and shall request that the Chief and Commissioner promptly inspect the premises for which the medical marijuana dispensary license is sought in order to assess compliance with the regulations under their respective jurisdictions.
- (b) The Chief and the Commissioner shall begin their respective investigations and inspections promptly upon receipt of notice of an application from the Director. The Chief and Commissioner shall provide the results of their investigations, including written certifications of whether the premises and applicants are in compliance with the laws and regulations under their respective jurisdictions, to the Director, in writing, within 60 days of receipt of notice of the application.
- (c) The Commissioner's inspection of the premises for which a medical marijuana dispensary license is sought shall include an investigation as to whether the premises are in compliance with the Ohio Basic Building Code, the Brook Park Zoning Code, the Brook Park Property Maintenance Code, and the provisions of this chapter related to physical characteristics of the premises.
- (d) Within 90 days after receipt of a completed medical

marijuana dispensary license application, the Director shall approve or deny the issuance of a license. The Director shall approve the issuance of a license to an applicant unless he or she determines that one or more of the following findings is true:

- (1) An applicant who is a natural person is under 18 years of age.
- (2) An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has falsely answered a question or request for information on the application form.
- (3) No person identified in the application pursuant to Section 556.06(b) or Section 556.06(c) of this chapter has been denied a license to operate a medical marijuana dispensary or has had a license to operate a medical marijuana dispensary revoked within the preceding 12 months by any jurisdiction.
- (4) No person identified in the application pursuant to Section 556.06(b) or Section 556.06(c) of this chapter has been convicted of a disqualifying offense.

(5) The proposed medical marijuana dispensary would violate or fail to be in compliance with any provisions of the Brook Park Zoning Code, Property Maintenance Code or General Offenses Code, or state statute or regulation.

(6) The application and investigation fee or a prior license fee required by this chapter has not been paid in full.

(7) An applicant is in violation of or in not in compliance with any provision of this chapter, except as provided in subsection (e)(1) of this section.

(e) If the Director determines that one or both of the following findings is true, the license issued pursuant to subsection (d) of this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

(1) The results of inspections of the premises by the Chief or the Commissioner indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions, including the provisions of this chapter related to characteristics of the physical premises. This subsection shall not apply to premises that are in violation of any law or regulation that is identified or referenced in subsections (d)(1) through (d)(7) hereof.

(2) An applicant is overdue in payment to the City of taxes,

fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(f) If the Director determines that no other grounds for denial of a license exist under subsection (d) hereof, the Director shall not delay approval of the application past the end of the 90-day period provided in this section solely because the Chief has not provided the Director with the results of his inspection of the premises; the results of the Commissioner's inspection of the premises are not available; or the Chief has not completed his investigation of the criminal background of the applicant(s). If, after approving the issuance of a license, the Director receives information from his investigation which he determines constitutes grounds for denial of a license under subsection (d) hereof, then the medical marijuana dispensary license issued pursuant to this subsection (f) hereof shall be immediately revoked. If after approving the issuance of a license, the Director receives information concerning the results of inspections of the premises by the Chief, or the Commissioner's inspection, which the Director determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under subsection (e) hereof, then a requirement shall be added to the terms of the medical marijuana dispensary licenses issued pursuant to this subsection (f) hereof to correct all deficiencies noted within 120 days of the date such requirement is added.

(g) A medical marijuana dispensary license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the licensed medical marijuana dispensary. All medical marijuana dispensary licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(h) The Director shall advise the applicant in writing of the reasons for any license denial.

720.08 FEES.

(a) Every application for a new medical marijuana dispensary license shall be accompanied by a \$350.00 non-refundable application and investigation fee.

(b) Every application for renewal of a medical marijuana dispensary license shall be accompanied by a \$250.00 non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required

in subsection (a) or (b) hereof, every applicant that is granted a medical marijuana dispensary license (new or renewal) shall pay to the City an annual, non-prorated license fee in the amount of \$25,000.00 upon license issuance or renewal and which the licensee shall pay to the City within 60 days of the expiration of any term (new or renewal) of the license. The initial license fee may be refunded only if the applicant does not receive a license issued by the state board of pharmacy for a period covering any portion of the term of the license issued by the City. The licensee shall give the Director or his or her designee(s) an opportunity to review the data and basis upon which the licensee has calculated fees due under this section.

(d) All fees for licenses and permits are to be collected by the Building Department.

720.09 INSPECTION.

(a) The Division of Police and Commissioner shall, from time to time, inspect each medical marijuana dispensary licensed under the provisions of this chapter that is open to the public in order to assess compliance with the provisions of this chapter.

(b) An applicant or licensee shall permit the Commissioner or designees and the Chief or designees, as well as representatives of other city departments and divisions, to inspect a medical marijuana dispensary that is open to the public for the purpose of insuring compliance with the law, during times that it is occupied or open for business.

(c) An applicant or licensee shall subject the application to denial or the license to revocation if he or she refuses to permit such lawful inspection of the premises.

720.10 EXPIRATION AND RENEWAL OF LICENSE.

(a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than 90 days and no fewer than 30 days before the expiration date. If application is made fewer than 30 days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(b) An application for renewal of a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the

qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 720.06 of this chapter. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.

Sketches or diagrams and security plans submitted with an initial medical marijuana dispensary license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram and security plan still depict the premises and plan accurately.

(c) The Director shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under Section 720.07 of this chapter.

(d) he Director shall advise the applicant in writing of the reason(s) for any denial of a license renewal.

(e) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. If the City finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the denial was issued.

720.11 LICENSE SUSPENSION.

(a) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee:

- (1) Has violated or is not in compliance with any section of this chapter; or
- (2) Has authorized or approved an employee's violation of or failure to comply with any section of this chapter, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary has allowed an employee to violate or fail to comply with any section of this chapter.

(b) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee or his employee or agent has refused to allow an inspection of the licensed medical marijuana dispensary premises

as authorized by this chapter.

(c) The Director shall advise the licensee in writing of the reason(s) for any suspension.

720.12 LICENSE REVOCATION.

(a) The City shall revoke a medical marijuana dispensary license if a cause of suspension under Section 720.11 of this chapter occurs and the license has been suspended two times within the preceding 12 months.

(b) The City shall revoke a medical marijuana dispensary license if it determines that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) The licensee(s) failed to comply with any requirement stated in the license, pursuant to Section 720.07(g) of this chapter, to correct specified deficiencies within 120 days;

(3) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed, possession, use, or sale of controlled substances (except medical marijuana) on the premises;

(4) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed the commission of a felony on the premises;

(5) A licensee operated the medical marijuana dispensary during a period of time when the licensee knew or reasonably should have known that the licensee's license was suspended, or when the licensee no longer maintained a dispensary license issued by the state board of pharmacy;

(6) A licensee has been convicted of a specified criminal activity, as defined in Section 720.02 of this chapter, during the term of the license; or

(7) A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due that were assessed or imposed in relation to any business.

(c) The Director shall advise the licensee in writing of the

reason(s) for any revocation.

(d) When the City revokes a license, the licensee shall not be issued another license for one year from the date the revocation became effective. If the City finds, subsequent to revocation, that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

720.13 APPEAL RIGHTS.

(a) Any denial, suspension, or revocation of a new or renewal license under this chapter may be appealed to the City of Brook Park Board of Zoning Appeals by written notice within 10 days of such denial, suspension or revocation. Unless the applicant requests a longer period, the Board of Zoning Appeals must hold a hearing on the appeal within 30 days and must issue a decision affirming or reversing the denial, suspension, or revocation within five days after the hearing.

(b) Any decision by the Board of Zoning Appeals shall be a final appealable order and the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction pursuant to general law.

(c) Any licensee lawfully operating a medical marijuana dispensary prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to operate said business during the pendency of an appeal of a decision rendered under this chapter to the Board of Zoning Appeals or to a court.

(d) In the event that an applicant for a new medical marijuana dispensary license seeks judicial review of the denial of a new license, there shall be no automatic stay of the denial.

720.14 TRANSFER OF LICENSE.

A medical marijuana dispensary license is not transferable from one licensee to another or from one location to another without the express written permission of the Director. Any purported transfer of a medical marijuana dispensary license without the express written permission of the Director shall automatically and immediately revoke that license. Notwithstanding anything in this chapter to the contrary, a license transferee shall assume all responsibilities of the license transferor under this chapter and all applicable code.

**720.15 REGULATIONS PERTAINING TO THE OPERATION OF
MEDICAL MARIJUANA DISPENSARIES.**

(a) No person may operate or cause to be operated a medical marijuana dispensary without complying with the following requirements:

(1) The medical marijuana dispensary shall be operated in accordance with all applicable laws, rules and regulations promulgated by the state.

(2) The parcel upon which the dispensary is operated shall not at the time the original dispensary license is issued be located within 1,000 feet from any parcel on which sits a school, church, public library, public playground, recreation center, city owned building or property, or 500 feet from any residential property and not within one-half mile of any medical marijuana dispensary or public park.

(3) Consultations by medical professionals shall not be a permitted at a dispensary, unless the patron already has a recommendation for medical marijuana prior to entering the dispensary.

(4) Signs shall be posted on the outside of the dispensary and shall only contain the name of the business, limited to two colors.

(5) The dispensary shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

(6) The use of any vending machine which allows access to medical marijuana is prohibited. For purposes of this subsection (a)(6), a vending machine is any device which allows access to medical marijuana without a human intermediary.

(7) The premises of every medical marijuana dispensary shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than five foot-candles as measured at floor level.

(8) No medical marijuana dispensary shall be operated in any manner that permits the observation from outside the premises of any image depicting or describing a marijuana leaf or the combustion of plant material, whether by means of display, decoration, sign, window or any other means.

(9) Any material change to information provided in the

licensee's application including, but not limited to, changes to the security plan must be promptly communicated, in writing, to the Director.

(10) If, at any time, the licensee is subject to any enforcement action by the state, the licensee shall immediately notify the Director and shall provide any relevant information or documentation requested by the Director.

(11) If, at any time, the licensee has a reasonable belief that an actual loss, theft or diversion of medical marijuana or currency worth or amounting to more than \$100.00 has occurred, the licensee shall immediately notify the Director, and in any event such notification shall be provided no later than 24 hours after discovery of the loss, theft or diversion.

(b) Except as otherwise provided in this paragraph, any person who violates subsection (a) hereof, or any person who operates a medical marijuana dispensary and permits a violation of subsection (a) hereof on the premises, shall be guilty of a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of subsection (a) hereof, a violation of subsection (a) of this section will be considered a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of subsection (a) of this section, a violation of subsection (a) hereof will be considered a misdemeanor of the first degree.

720.16 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

(a) It shall be the duty of the operator of a medical marijuana dispensary to:

(1) Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the medical marijuana dispensary is located;

(2) Post conspicuous signs stating that no loitering is permitted on such property;

(3) Monitor the activities of persons on such property by visually inspecting such property or inspecting such property by use of video cameras and monitors; and

(4) Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring and to prohibit

loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

720.17 INJUNCTION.

Any person who operates or causes to be operated a medical marijuana dispensary in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations under the Codified Ordinances of the City.

720.18 EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

720.19 CHANGE IN INFORMATION.

During the pendency of any application for, or during the term of, any medical marijuana dispensary license, the applicant or licensee shall promptly notify the Director in writing of any change in any material information given by the applicant or licensee in the application for such license, including specifically, but without limitation, any change in managers of the medical marijuana dispensary establishment or in the individuals identified in the application pursuant to this chapter; or if any of the events constituting grounds for suspension or revocation pursuant to this chapter occur.

720.99 PENALTY.

(a) Violations of this chapter for which no penalty is specified shall be unclassified misdemeanor offenses punishable by fine or imprisonment, as provided in Section 501.99 of the Codified Ordinances of the City of Brook Park.

(b) Each day that a medical marijuana dispensary operates in violation this chapter is a separate offense.

SECTION 2: It is 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 all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to enact Chapter 720 of the Park Codified Ordinances; therefore, provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council. It shall take effect and be in force immediately from and after its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

APPROVED: _____
MAYOR

DATE

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS


DIRECTOR OF LAW