

CITY OF BROOK PARK, OHIO

ORDINANCE NO: 11287-2022

INTRODUCED BY: COUNCILMAN TROYER, *Pounder, Ter, Roberts, Mancini*

P/C 9-20-22 Legislative
CA Prior 9-20-22 a
1st R 10-18-22
2nd R 11-1-22
3rd R _____
B/C _____

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

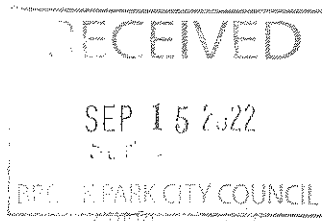
1126.01 PURPOSE.

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"
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-5A and all of U-7 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.

(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 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: November 15, 2022

[Signature]
PRESIDENT OF COUNCIL

ATTEST: Carol Johnson
CLERK OF COUNCIL

APPROVED: [Signature]
MAYOR

I, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in this municipality and that publication of the foregoing ordinances/ordinance was made by posting true copies at five of the most public places in said municipality as determined by Ordinance No. 4838-1975; to-wit: City Hall 6161 Engle Road, Police Station 17401 Holland Road, Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

Attest: November 16, 2022
Carol Johnson
CAROL JOHNSON
Clerk of Council

11-15-22
DATE
CERTIFICATE

Carol Johnson, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 11287-2022 passed on the 15 day of November 2022 by said council.

Carol Johnson
Clerk of Council

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

[Signature]
DIRECTOR OF LAW

	Yea	Nay
Troyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Coyne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Polindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Salvatore	<input checked="" type="checkbox"/>	<input type="checkbox"/>