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CITY OF BROOK PARK, OHIO

ORDINANCE NO: 11374-2023

INTRODUCED BY: COUNCILMEMBERS TROYER, POINDEXTER, ROBERTS, MENCINI,
AND COYNE

AN ORDINANCE

ENACTING CHAPTER 1127 OF THE BROOK PARK CODIFIED ORDINANCES
ENTITLED 'ADULT USE CANNABIS DISPENSARIES', AND DECLARING AN
EMERGENCY

WHEREAS, on November 7, 2023, Ohio voters approved State Issue 2,
legalizing recreational marijuana in Ohio; and

WHEREAS, Chapter 3780, Adult Use Cannabis Control will become
effective on December 7, 2023; and

WHEREAS, R.C. Section 3780.25 authorizes the legislative body of
a municipal corporation to limit the number of cannabis operations
within its jurisdiction.

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

SECTION 1: Chapter 1127 of the Brook Park Codified
Ordinances, entitled "Adult Use Cannabis Dispensaries" is hereby
enacted to read as follows:

CHAPTER 1127

Adult Use Cannabis Dispensaries

1127.01 PURPOSE.

It is the purpose of this chapter to regulate Adult
Use Cannabis 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 Adult Use Cannabis dispensaries
within the City.

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1127.02 DEFINITIONS.

For purposes of this chapter,

- (a) "Adult Use Cannabis" shall have the same meaning as in R.C. 3719.01
- (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 an Adult Use Cannabis dispensary has been issued under Chapter 719, as well as the individual(s) designated on the license application as principally responsible for the operation of the Adult Use Cannabis dispensary.
- (e) "Operate" means to control or hold primary responsibility for the operation of an Adult Use Cannabis 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 an Adult Use Cannabis dispensary who is authorized to exercise overall operational control or hold primary responsibility for the operation of an Adult Use Cannabis 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 an Adult Use Cannabis 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.

1127.03 LOCATION OF ADULT USE CANNABIS DISPENSARIES.

(a) Adult Use Cannabis dispensaries may be located only in U-5A and in 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 Adult Use Cannabis 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 Adult Use Cannabis dispensary may be established, operated or enlarged within one half mile of another Adult Use Cannabis dispensary.

(d) Not more than one Adult Use Cannabis 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 an Adult Use Cannabis dispensary is conducted, to the nearest property line of the premises of an Adult Use Cannabis 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.

1127.04 OFF-STREET PARKING.

Off-Street parking for an Adult Use Cannabis 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.

1127.05 SIGN REGULATIONS FOR ADULT USE CANNABIS DISPENSARIES.

(a) All signs for an Adult Use Cannabis 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 an Adult Use Cannabis 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 an Adult Use Cannabis 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 an Adult Use Cannabis 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 719.16 may be permitted.

1127.06 LICENSING.

Adult Use Cannabis dispensaries as described in Section 1126.02 herein shall be licensed and operated pursuant to Chapter 719.

1127.07 HEARING; RENEWAL; REVOCATION.

(a) Notwithstanding anything in this chapter or section to the contrary, any conditional use permit application for an Adult Use Cannabis 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 an Adult Use Cannabis dispensary is non-transferable.

(d) Notwithstanding anything in this chapter or section to the contrary, any conditional use permit granted for an Adult Use Cannabis 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.

1127.08 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.

1127.99 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 an Adult Use Cannabis 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 1127 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: December 5, 2023

ATTEST: Carol Johnson
CLERK OF COUNCIL

Michael Mancini
PRESIDENT OF COUNCIL

APPROVED: Edmund A. Smith
MAYOR

12-11-23
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. 11374-2023

passed on the 5 day of December

20 23 by said council.

Carol Johnson
Clerk of Council

	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 type="checkbox"/>	<input checked="" type="checkbox"/>

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

[Signature]
DIRECTOR OF LAW