

ORDINANCE NO. 087-2024(PD), *Second
Reading*

By Mayor Seren

An Ordinance amending Chapter 711, "Medical Marijuana," of the Codified Ordinances of the City of Cleveland Heights, Ohio to provide for the licensing of adult-use marijuana businesses within the City in addition to medical marijuana businesses.

WHEREAS, Ohio voters in November 2023 overwhelmingly approved the legalization of adult use marijuana for non-medicinal purposes, by passing "Issue 2," which enacted Ohio R.C. Chapter 3780 which, among other things, provides a process for non-medical cannabis business licensure and establishes a Division of Cannabis Control under the Ohio Department of Commerce; and

WHEREAS, the Division of Cannabis Control has confirmed that applications for "dual use" licenses that would allow existing medical marijuana dispensaries to also sell non-medicinal adult-use marijuana will be available not later than June 7, 2024; and

WHEREAS, this Council has determined that the City's existing medical marijuana licensing laws, found in Chapter 711 of the City's Codified Ordinances, should be amended to reflect the passage of Issue 2 and the enactment of ORC Chapter 3780, and to provide for issuance of adult-use and dual-use marijuana business licenses in addition to medical marijuana business licenses.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Chapter 711, "Medical Marijuana," of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted in its entirety to read as Exhibit A attached hereto and incorporated herein. A complete copy of Exhibit A is also on file with the Clerk of Council.

SECTION 2. The existing Chapter 711 of the Codified Ordinances of Cleveland Heights shall be, and is hereby, repealed in its entirety.

SECTION 3. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the immediate need to align the City's marijuana licensing policy with recent changes to Ohio law. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.



TONY CUDA
President of the Council



ADDIE BALESTER
Clerk of Council

PASSED: June 3, 2024

Presented to Mayor: 06/06/2024

Approved by Mayor: 06/13/2024



KAHLIL SEREN
Mayor

CHAPTER 711
Marijuana Entity Licensing

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- 711.02 License required.
- 711.03 Licensing authority.
- 711.04 License procedures and fees.
- 711.05 Responsibilities of the licensee.
- 711.06 License suspension or revocation.
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- 711.08 Marijuana License Review Board.
- 711.09 Hearing before the Marijuana License Board.
- 711.99 Penalty.

711.01 DEFINITIONS.

Unless otherwise defined herein, the terms in the Chapter shall have the same meaning as set forth in Ohio Revised Code Section 3780.01 and 3796.01.

- (a) "Applicant" shall mean any person or entity applying for a License pursuant to this Chapter.
- (b) "License" shall mean a license issued pursuant to this Chapter.
- (c) "Licensee" shall mean a person or entity with a valid License received pursuant to this Chapter.
- (d) "Marijuana Entity" shall mean a marijuana cultivator, processor, dispensary, or testing laboratory authorized by Ohio Revised Code Chapter 3780 and/or 3796.

711.02 LICENSE REQUIRED.

No Marijuana Entity shall operate within the City, without a valid License, which is in full force and effect and issued pursuant to this Chapter, or without a valid state certificate or license, as applicable.

711.03 LICENSING AUTHORITY.

- (a) The Mayor or designee is the licensing authority and, pursuant to this Chapter, shall consider the applications and renewal for Licenses and issue, suspend, revoke, or deny issuances of Licenses.

- (b) An application for a License shall be granted on the approval of the Mayor or designee at his/her sole discretion.
- (c) A renewal application for a License shall be granted on the approval of the Mayor or designee at his/her sole discretion.
- (d) Nothing in this Chapter shall be construed to limit the Police Division's ability to investigate unlawful activity in relation to a License or the unlawful operation of a Marijuana Entity.

711.04 LICENSE PROCEDURES AND FEES.

- (a) Applicants desiring to operate a Marijuana Entity shall make an application upon a form provided by the Mayor or designee.
- (b) All applications, including renewals, shall include a security plan and site plan, subject to approval by the Chief of Police. Said security plan shall be in a form proscribed by the Chief of Police. Applicant shall supply any and all additional information requested by the Chief of Police to evaluate said security plan. All applicants, except renewals, shall include a non-refundable application fee of two hundred and fifty dollars (\$500.00).
- (c) Upon approval by the Mayor or designee, Applicant shall pay a license fee based on the following schedule of categories and amounts per calendar year or fraction thereof:
 1. Medical marijuana business licenses: \$5,000.00
 2. Adult use marijuana business licenses: \$10,000.00
 3. Dual-use (medical and adult use) business licenses: \$10,000.00
- (d) Each License shall be an annual license, which covers the period of the issuance until December 31.
- (e) A renewal application shall be submitted on or before October 1 of each year upon a renewal form provided by the Mayor or designee to be processed prior to December 31.
- (f) Any Marijuana Entity that fails to timely obtain a renewal of License shall not operate after the License expires on December 31.

711.05 RESPONSIBILITIES OF THE LICENSEE.

- (a) Each License shall be displayed permanently in a conspicuous place on the premise of the Marijuana Entity for which it is issued.
- (b) Each License shall be only assignable or transferable, as to person or location, upon written consent of the Mayor or designee.
- (c) Licensee shall immediately notify the Mayor or designee of any material change to information provided in the application including, but not limited to, changes to the security plan.

(d) If, at any time, the Marijuana Entity or its owner or principal is subject to any enforcement action by the State of Ohio, the Marijuana Entity shall immediately notify the Mayor or designee and shall provide any relevant information or documentation requested by the Mayor or designee.

(e) If, at any time, the Marijuana Entity or its employee has a reasonable belief that an actual loss, theft, or diversion of marijuana or currency over one hundred dollars (\$100.00) has occurred, the Marijuana Entity shall immediately notify the Cleveland Heights Police Department, and such notification shall be provided no later than 24 hours after discovery of the loss, theft, or diversion.

711.06 LICENSE SUSPENSION OR REVOCATION.

The Mayor or designee may suspend or revoke any License for violation of any City ordinance, false or incorrect information submitted on the license application, or for failure to comply with the approved security plan.

711.07 SERVICE OF DENIAL OR REVOCATION NOTICE.

All notices of denial or revocation issued pursuant to this Chapter shall be served by first-class mail to the address supplied on the License application.

711.08 MARIJUANA LICENSE REVIEW BOARD.

(a) There is hereby created a Marijuana License Review Board (hereafter, the "Board") consisting of the Chairperson of the Public Safety and Health Committee of Council or other member of City Council appointed by the President of Council, the Mayor or designee, and Director of Planning and Development or designee.

(b) The presence of two (2) members of the Board shall constitute a quorum. Any action of the Board shall require two (2) affirmative votes.

711.09 HEARING BEFORE THE MARIJUANA LICENSE REVIEW BOARD.

(a) Any Licensee issued a revocation, suspension, or denial of a renewal license pursuant to this Chapter may request a hearing before the Board. A hearing request must be made in writing and received by the Director of Law within seventeen (17) calendar days of the date of the first-class mailing of the notice.

(b) The hearing shall be held within a reasonable time from receipt of the request to appeal. The Applicant shall be given at least fourteen (14) calendar days' notice of the date, time, and location of the hearing and shall have the opportunity to present sworn evidence to the Board and cross examine any sworn witnesses presented by the City. The hearing shall proceed in a manner prescribed by the Board.

(c) After said hearing, the Board shall render a written decision affirming or reversing the License revocation, suspension, or renewal denial.

711.99 PENALTY.

Whoever violates any provision of this Chapter is guilty of a minor misdemeanor on a first offense and a fourth degree misdemeanor on a second or subsequent offense with penalties as provide by Section 501.99 of the Codified Ordinances.