



**Monroe Council Agenda
Regular Meeting of Council
June 3, 2024 – 6:00 PM
233 South Main Street, Monroe, Ohio**

Pledge of Allegiance

Roll Call

New Business

Legislation options for Medical and Adult-Use Cannabis Marijuana

Sponsor: Tom Smith

Strategic Priority:

Background: The Division of Cannabis Control oversees the Medical Marijuana Control Program (MMCP)

Under the Medical Marijuana Control Program, medical marijuana is administered by the Department of Commerce and the State Medical Board.

As a recap, in an administrative report presented to council on August 8, 2023, the following recommendations were presented to council for consideration to proposed legislation:

1. Number of Dispensaries Permitted.

The proposed policy allows for a maximum of 4 medical marijuana dispensaries.

Does not reference a provision to decrease should one go out of business.

2. Operation Use Type.

The proposed policy allows for medical marijuana cultivators, processors, dispensaries, and testing facilities to operate as a conditional use in designated zoning districts, with dispensaries being treated as a retail establishment.

3. Fees.

For traditional retail businesses, Monroe charges:

Zoning Verification \$50

Conditional Use Permit \$300

Zoning Review for New Business/Use \$100

Certificate of Occupancy \$250

Other Cities with Marijuana Dispensaries as a permitted use and their fee schedule:

City of Lebanon

Conditional Use Permit \$300

Certificate of Occupancy \$200

City of Oxford

Treats dispensaries as a retail use with certificate of occupancy and no additional fees or regulations



Beavercreek

Medical Marijuana Notice of Proper Zoning \$250

Operating License fee \$5,000

Operating License Renewal fee \$15,000

Location Change fee \$5,000

Adult-Use Cannabis

Ohio Issue 2:

1. Legalized the possession of Adult-Use Cannabis to persons over twenty-one years of age.
2. Created ORC Chapter 3780: Adult Use Cannabis Control

ORC Chapter 3780: Adult-Use Cannabis

1. Authorized a ten (10%) percent excise tax to be levied against and collected at the point of sale (§ 3780.22). Of that 10%, thirty-six (36%) percent shall be distributed to the host community (City of Monroe) to use for any approved purpose (§ 3780.23(C)(2)).
2. As provided by § 3780.25: Local authority regarding adult use cannabis operators, Council may adopt an ordinance to prohibit, or limit the amount of adult-use cannabis operators permitted within the municipal corporation of the City.
3. However, a municipality cannot prohibit an adult-use cannabis dispensary that is co-located on the same parcel where a medical marijuana dispensary, processor, or cultivator already exists (§ 3780.25(B)(1)).

Home Grow

1. Permits the cultivating, growing, and possessing not more than six (6) cannabis plants at the individual's primary residence. However, not more than twelve (12) cannabis plants can be cultivated or grown at a single residence where two or more individuals who are at least twenty-one years of age reside at any one time (§ 3780.29(A)(1)(a)).
2. Cultivation or growing of adult-use cannabis can only take place within a secured closet, room, greenhouse, or other enclosed area in or on the grounds of the residence that prevents access by individuals less than twenty-one years of age, and which is not visible by normal unaided vision from a public space (§ 3780.29 (A)(1)(b); and transferring up to six (6) cannabis plants to an adult-use consumer as long as the transfer is without remuneration and not advertised or promoted to the public (§ 3780.29 (A)(1)(b)(3)).

Other cities and their position on adult-use cannabis:

City of Mason

December 11, 2023, Ordinance 2023-117 passed a 360-day moratorium allowing any permit for adult-use cannabis operators

City of Middletown

As of December 21, 2023, a six-month moratorium has been placed on adult-use cannabis



City of Springboro

As of December 8, 2023, implemented a 300-day moratorium on adult-use cannabis

Liberty Township

As of December 6, 2023, Township Trustees placed a temporary ban on cultivation, processing, or sale of marijuana through November 17, 2024

City of Lebanon

Undetermined

City of Trenton

Undetermined

West Chester Township

As of December 5, 2023, Township Trustees placed a 360-day moratorium on cultivation, processing, or sale of marijuana

City of Hamilton

As of December 7, 2023, Hamilton approved a 6-month moratorium on recreational marijuana

City of Fairfield

As of December 6, 2023, Fairfield established a 9-month moratorium on recreational marijuana.

Adjournment

CHAPTER 870: MEDICAL MARIJUANA

Section

- 870.01 Purpose
- 870.02 Definitions
- 870.03 Medical Marijuana Dispensaries
- 870.04 Permitting of Medical Marijuana Facilities
- 870.05 Location Change
- 870.06 Inspections; Records; Notifications
- 870.07 Enforcement
- 870.08 Appeal
- 870.99 Penalty

870.01 PURPOSE

The purpose of this chapter is to establish regulations for the use of medical marijuana and to facilitate the permitting of medical marijuana facilities.

870.02 DEFINITIONS.

For the purpose of this chapter, the definitions, words and phrases defined in the sections hereunder shall have the meaning therein respectively ascribed to them unless the context clearly indicates or requires a different meaning.

CODE ENFORCEMENT OFFICER. As defined in the City of Monroe Planning and Zoning Code § 1217.02.

CONDIITONAL USE PERMIT. As defined in the City of Monroe Planning and Zoning Code § 1203.07.

MARIJUANA. As defined in R.C. § 3719.01.

MEDICAL MARIJUANA. Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose in accordance with the laws of the State of Ohio.

MEDICAL MARIJUANA CULTIVATION FACILITY. 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.

MEDICAL MARIJUANA ENTTTY. A medical marijuana cultivator, processor, dispensary, or testing laboratory as authorized by R.C. Chapter 3796.

MEDICAL MARIJUANA PROCESSING FACILITY. 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.

MEDICAL MARIJUANA RETAIL DISPENSARY. A licensed medical clinic whose primary function is to prepare and sell medical marijuana to authorized patients.

MEDICAL MARIJUANA TESTING FACILITY, RESEARCH FACILITY or LABORATORY. A licensed entity that obtains medical marijuana from licensed cultivators, processors, and retail dispensaries to conduct testing on the produce. Testing procedures include but are not limited to testing for potency, homogeneity, and contamination and the preparation of a report of test results.

PERSON. Any natural or corporate person, business association or other business entity, including but not limited to a firm, corporation, limited liability company, partnership, joint venture, sole proprietorship, or any other legal entity operating as a unit.

PROCESSOR. A person, as defined in this section, that manufactures medical marijuana products as authorized by R.C. Chapter 3796.

PROHIBITED FACILITY. A school, church, public library, public playground, or public park.

VALID. Not expired, suspended or revoked.

ZONING REVIEW FOR NEW BUSINESS/USE. As defined in the City of Monroe Planning and Zoning Code § 1217.02.

870.03 MEDICAL MARIJUANA DISPENSARY.

(A) **There shall be a maximum of four (4) Medical Marijuana Dispensaries within the City of Monroe corporate limits.**

(B) No Medical Marijuana Dispensary shall be located within 500 feet of a school, church, public park, public playground or public library as provided in R.C. Chapter 3796.

(C) The exterior of any Medical Marijuana Dispensary shall be properly screened so that its activities, with the exception of any administrative tasks occurring inside the facility, cannot be seen by the public within the right-of-way in accordance with the City of Monroe Planning and Zoning Code.

870.04 PERMITTING OF MEDICAL MARIJUANA FACILITIES.

(A) Medical marijuana cultivator, processor, dispensary, and testing facilities shall operate as a **Conditional Use** in designated zoning districts, and in accordance with the City of Monroe Planning and Zoning code.

(B) No medical marijuana dispensary shall operate in the City unless the entity possesses both a valid Conditional Use Permit, a valid Zoning Review for New Business/Use, and a valid state certificate of operation from the Ohio Department of Commerce, except as otherwise provided in this section.

(C) A medical marijuana dispensary seeking to obtain a Zoning Review for New Business/Use under this chapter must first apply for a Conditional Use Permit. A medical marijuana dispensary

may not receive a certificate of occupancy unless the dispensary possesses both a valid Conditional Use Permit and a valid Zoning Review for New Business/Use.

(D) An application for a Conditional Use Permit shall be made to the Code Enforcement Officer and shall include:

- (1) The legal name of the applicant.
- (2) The type of business organization of the applicant, such as an individual, corporation partnership, limited liability company, association, cooperative, joint venture, or any other business organization.
- (3) Confirmation that the applicant is registered with the Ohio Secretary of State as the type of business submitted pursuant to this rule, a certificate of good standing issued by the Ohio Secretary of State, and a copy of the applicable business documents governing the operations and administration of the business.
- (4) The mailing address, email address, and phone number of the applicant, if the applicant is an individual, or the name, mailing address, email address, and phone number of a designated representative of the applicant, if the applicant is not an individual.
- (5) If the applicant is currently, was previously, or has applied to be licensed or authorized in another state or jurisdiction to cultivate, produce, dispense, or otherwise deal in the distribution of medical marijuana in any form, the following:
 - (a) A copy of each licensing/authorizing document verifying licensure in that state or jurisdiction; and
 - (b) If the applicant was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never warned, fined, denied, suspended, revoked or otherwise sanctioned. This includes notification of any pending proceedings regarding warnings, fines, denials, suspensions, revocations, or other sanctions.
- (6) A location area map of the area surrounding the proposed medical marijuana dispensary that establishes that the parcel of real estate on which the proposed facility will be located is at least 500 feet from the boundaries of a parcel of real estate having situated on it a prohibited facility, as measured under O.A.C. Chapter 3796:5-5-01.
- (8) Any other information requested by the Code Enforcement Officer.
- (9) A non-refundable Conditional Use Permit application fee.

(E) An application for a Conditional Use Permit shall be granted on the approval of the Planning and Zoning Commission at their discretion and in accordance with the City of Monroe Planning and Zoning Code § 1203.07.

(F) An application for a Zoning Review for New Businesses/Use shall be made to the Code Enforcement Officer and shall include:

- (1) A copy of the provisional license application by the medical marijuana dispensary to the Ohio Department of Commerce under R.C. Chapter 3796;

(2) A copy of the provisional license granted by the Ohio Department of Commerce under R.C. Chapter 3796 to the medical marijuana dispensary at the address at which the facility is to be located;

(3) Confirmation that the medical marijuana dispensary is conforming to all requirements under this chapter, R.C. Chapter 3796, and O.A.C. Chapter 3796;

(4) Any other information requested by the Code Enforcement Officer; and

(5) A non-refundable Zoning Review for New Business/Use application fee.

(G) An application for a Zoning Review for New Business/Use shall be granted on the approval of the Code Enforcement Officer at their discretion. No Zoning Review for New Business/Use shall be issued by the Code Enforcement Officer except upon presentation of a valid state certificate of operation.

870.05 LOCATION CHANGE

(A) Both a Conditional Use Permit and a Zoning Review for New Business/Use for a medical marijuana dispensary are only valid as to the particular address listed in the initial Conditional Use Permit and Zoning Review for New Business/Use applications.

(B) A medical marijuana dispensary seeking a location change under this chapter must first apply for a Conditional Use Permit.

(C) An application for a Conditional Use Permit shall be made to the Code Enforcement Officer and shall include:

(1) The legal name of the applicant.

(2) The type of business organization of the applicant, such as an individual, corporation, partnership, limited liability company, association, cooperative, joint venture, or any other business organization.

(3) Confirmation that the applicant is registered with the Ohio Secretary of State as the type of business submitted pursuant to this rule, a certificate of good standing issued by the Ohio Secretary of State, and a copy of the applicable business documents governing the operations and administration of the business.

(4) The mailing address, email address, and phone number of the applicant, if the applicant is an individual, or the name, mailing address, email address, and phone number of a designated representative of the applicant, if the applicant is not an individual.

(5) If the applicant is currently, was previously, or has applied to be licensed or authorized in another state or jurisdiction to cultivate, produce, dispense, or otherwise deal in the distribution of medical marijuana in any form, the following:

(a) A copy of each licensing/authorizing document verifying licensure in that state or jurisdiction; and

(b) If the applicant was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never warned, fined, denied, suspended, revoked or otherwise sanctioned. This includes

notification of any pending proceedings regarding warnings, fines, denials, suspensions, revocations, or other sanctions.

(6) A location area map of the area surrounding the proposed medical marijuana dispensary that establishes that the parcel of real estate on which the proposed facility will be located is at least 500 feet from the boundaries of a parcel of real estate having situated on it a prohibited facility, as measured under O.A.C. Chapter 3796:5-5-01.

(7) Any other information requested by the Code Enforcement Officer.

(8) A non-refundable Conditional Use application.

(E) An application for a Conditional Use Permit shall be granted on the approval of the Planning and Zoning Commission at their discretion and in accordance with the City of Monroe Planning and Zoning Code § 1203.07.

(F) An application for a Zoning Review for New Business/Use shall be made to the Code Enforcement Officer and shall include:

(1) A copy of the provisional license application by the medical marijuana dispensary to the Ohio Department of Commerce under R.C. Chapter 3796;

(2) A copy of the provisional license granted by the Ohio Department of Commerce under R.C. Chapter 3796 to the medical marijuana dispensary at the address at which the facility is to be located;

(3) Confirmation that the medical marijuana dispensary is conforming to all requirements under this chapter, R.C. Chapter 3796, and O.A.C. Chapter 3796;

(4) Any other information requested by the Code Enforcement Officer; and

(5) A non-refundable Zoning Review for New Business/Use application fee.

(G) An application for a Zoning Review for New Business/Use shall be granted on the approval of the Code Enforcement Officer at their discretion. No Zoning Review for New Business/Use shall be issued by the Code Enforcement Officer except upon presentation of a valid state certificate of operation issued by the Ohio Department of Commerce to the medical marijuana entity for the current address.

(H) A medical marijuana dispensary may not receive a certificate of occupancy unless the dispensary possesses both a valid Conditional Use Permit and Zoning Review for New Business/Use.

(I) If the ownership of a medical marijuana dispensary changes, requiring a transfer of ownership application of the State of Ohio under O.A.C. Chapter 3796:6-2-12, the medical marijuana dispensary must notify the City. If the State of Ohio determines that the proposed ownership change complies with O.A.C. Chapter 3796:6-2-12.

870.06 INSPECTIONS; RECORDS; NOTIFICATIONS

(A) As part of the submission of an application that results in the issuance of both a Conditional Use Permit and Zoning Review for New Business/Use, a medical marijuana dispensary irrevocably consents to the following:

(1) Any inspection of the City that is deemed necessary to ensure compliance by the medical marijuana dispensary with this chapter, R.C. Chapter 3796, and O.A.C. Chapter 3796. An inspection may be conducted with or without notice. During an inspection, a representative of the City may:

- (a) Review and make copies of all records maintained in accordance with rule O.A.C. 3796:6-3-18(A)(4);
- (b) Enter any area in the facility;
- (c) Inspect facility vehicles;
- (d) Review the policies and procedures of the medical marijuana entity, including methods of operating;
- (e) Survey the premises and any off-site facilities;
- (f) Inspect all equipment, instruments, tools, materials, machinery, or any other resource used to dispense medical marijuana;
- (g) Request access to locked areas in the facility;
- (h) Question licensed employees at the location; and
- (i) Obtain samples for testing any medical marijuana at the facility, any labels or containers for marijuana, or any raw packaged medical marijuana.

(B) Notifications.

(1) If, at any time, a medical marijuana dispensary is subject to any enforcement action by the State of Ohio under O.A.C. Chapter 3796:6, the medical marijuana dispensary must immediately notify the City of Monroe and provide any relevant information or documentation requested by the City.

(2) If, at any time, any information in a medical marijuana dispensary's Conditional Use Permit and/or Zoning Review for New Business/Use application changes, the medical marijuana dispensary must immediately notify the City.

870.07 ENFORCEMENT

(A) If, at any time, the City becomes aware that a medical marijuana dispensary possessing a Conditional Use Permit and/or Zoning Review for New Business/Use has engaged in, is engaged in, or is about to engage in any act or practice declared to be prohibited by this chapter, R.C. Chapter 3796, O.A.C. Chapter 3796, or any other local, state, or federal law, with the exception of acts that are permitted under state law but are federal law violations stemming from the classification of marijuana as a controlled substance under 21 U.S.C. § 812(c), the Code Enforcement Officer may do any of the following:

- (1) Refer such violations to the Ohio Department of Commerce;

(2) Issue a warning to the medical marijuana dispensary, which may include possible corrective action(s);

(3) Suspend the Conditional Use Permit and/or the Zoning Review for New Business/Use and require any violations to be resolved and corrective actions to be taken as conditions to the reinstatement of the suspended permit(s); or

(4) Revoke the permit(s).

(B) Notice.

(1) A warning, suspension, or revocation issued by the City under this section shall be served upon the medical marijuana dispensary at the address for which a Conditional Use Permit and/or the Zoning Review for New Business/Use were granted, by personal service, by certified and regular mail, or by posting in a conspicuous location.

(2) Notice by certified mail shall be effective upon delivery. In the event that notice by certified mail is returned unclaimed or refused, mailing of the notice by regular mail shall be deemed effective upon mailing. Notice by personal service or by posting shall be deemed effective at the time of personal service or posting, respectively.

(C) A medical marijuana dispensary must immediately cease operations upon suspension or revocation of a Conditional Use Permit and/or the Zoning Review for New Business/Use, unless otherwise instructed by the City, until the suspension is lifted, or a new Conditional Use and/or the Zoning Permit is obtained.

(D) Suspension of Permit(s).

(1) Suspension of permit(s) shall only be accomplished through the procedures outlined in this division. Suspension shall be accomplished after a public hearing is held thereon by the Code Enforcement Officer, which hearing shall be held within 30 days after notice is given to the permit holder of such hearing, by certified mail and regular mail. The permit holder shall have the right to appear at such a hearing, to be represented by counsel, and to have the right to examine and cross examine witnesses.

(2) Suspension may take place without a prior hearing if the Code Enforcement Officer finds clear and convincing evidence that the continued distribution of medical marijuana presents a danger of immediate and serious harm to others. Notice of the suspension shall be made as provided in this section and a hearing on the merits of the suspension will take place within five days of the suspension.

(3) The suspension will remain in effect, unless lifted by the Code Enforcement Officer, pending the results of the hearing. If the Code Enforcement Officer does not issue an order within 90 days after the hearing, the suspension shall be lifted on the 91st day following the hearing.

(4) As a condition of the reinstatement of any suspended permits, the Code Enforcement Officer may require any violations to be resolved and reasonable corrective actions to be taken.

(E) Revocation of Permit(s).

(1) Revocation of permit(s) shall only be accomplished through the procedures outlined in this division. Revocation shall be accomplished only after a public hearing is held thereon by the Code

Enforcement Officer, which hearing shall be held within 30 days after notice is given to the permit holder of such hearing, by certified mail and regular mail. The permit holder shall have the right to appear at such a hearing, to be represented by counsel, and to have the right to examine and cross-examine witnesses.

870.08 APPEAL.

(A) In the event of a decision or ruling adverse to a permit holder or permit applicant regarding a denial, revocation, or suspension of a permit, the permit holder or permit applicant shall have the right to appeal such decision and ruling to a court of competent jurisdiction, under authority of and pursuant to the provisions of R.C. Chapter 2506. A notice of appeal in such action shall be filed with the office of the City Manager, as well as with the court to which the action is appealed, within appropriate time limits, as provided in R.C. Chapter 2505.

(B) The Code Enforcement Officer shall have the authority to deny a Zoning Review for New Business/Use or location change related to a medical marijuana dispensary.

870.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the first degree.