

ORDINANCE NO. 22-2024

AN ORDINANCE CREATING CHAPTER 126 OF THE CODIFIED ORDINANCES OF THE CITY OF SPRINGDALE, OHIO REGULATING THE LICENSING OF MARIJUANA CULTIVATOR & PROCESSING FACILITIES AND MARIJUANA DISPENSARIES AND DECLARING AN EMERGENCY

WHEREAS, on November 7, 2023 Ohio voters approved State Issue 2 adopting proposed legislation authorizing the cultivation, sale and use of marijuana products for recreational purposes, which became law on December 7, 2023 and has been codified as Sections 3780.01 through 3780.99 of the Ohio Revised Code (the “Act”); and

WHEREAS, the Act provides that a newly created “Division of Cannabis” shall adopt state rules establishing standards and procedures for the implementation of the adult use marijuana program, including licensing requirements for cultivators, processors, and retailers, which must be adopted within nine months of December 7, 2023; and

WHEREAS, City Council possesses the power to enact appropriate planning, zoning, and business regulation laws that further the health, safety, and general welfare of its citizens, including restricting, prohibiting, and/or regulating certain business uses in the City of Springdale (the “City”); and

WHEREAS, on or about February 21, 2024, City Council adopted Ordinance 09-2024, a moratorium on the issuance and processing of any permits related to the cultivation, processing, or retail dispensing of adult use marijuana in the City as defined in Sections 3780.01 through 3780.99 of the Ohio Revised Code; and

WHEREAS, City Council now seeks to lift that moratorium and adopt certain regulations regarding the location, licensing and number of marijuana cultivators and dispensaries in the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, _____ members elected thereto concurring:

Section 1. The moratorium adopted by City Council on February 21, 2024, known as Ordinance No. 09-2024 is repealed in its entirety.

Section 2. City Council hereby creates and adopts Chapter 126 of the Codified Ordinances of the City of Springdale, Ohio a copy of which is attached as Exhibit A and incorporated herein by reference.

Section 3. Council hereby finds and determines that all formal actions relative to the passage of this legislation were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance shall take effect on the earliest date allowed by law.

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II(D)(3)(d) of the Charter, be effective immediately. The reason for the emergency is to adopt new standards since the moratorium on medical marijuana cultivation, processing and retail dispensaries has been lifted and to comply with ORC Sections 3780.01 through 3780.99.

Passed this 19th day of June, 2024.

Attest:

President of Council

Clerk of Council

Approved:

Mayor

Date

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CHAPTER 126: LICENSURE FOR MARIJUANA CULTIVATOR & PROCESSING FACILITIES AND MARIJUANA DISPENSARIES.

- § 126.01 Business License Required
- No person shall operate a Marijuana Cultivator & Processing Facility or a Marijuana Dispensary business in the City without having first obtained a business license.
- § 126.02 Definitions
- All definitions contained in Section 153.600 of the Code shall be used in interpreting this Chapter and the regulations contained within it.
- § 126.03 Licensure
- (a) No licenses may be issued for a Marijuana Cultivator & Processing Facility to be located in the City;
 - (b) No more than two licenses may be issued for a Marijuana Dispensary to be located in the City;
 - (c) Any license issued under this Section for any Marijuana Cultivator & Processing Facility or Marijuana Dispensary shall be for a two year period of time and shall be renewable as provided in this Chapter;
 - (d) All licenses shall be issued in the name of the applicant;
 - (d) Each license shall vest a personal privilege but not any property rights in the licensee;
 - (e) Each license shall be required to be displayed permanently in a conspicuous place upon the premise for which it is issued;
 - (f) Each license shall be neither assignable nor transferable, either as a person or location; and
 - (g) The failure to follow any and all rules required by the Ohio Division of Cannabis or the City may result in the immediate revocation of any license issued by the City under this Chapter.
- § 126.04 Procedure for Obtaining a License
- (A) The application for a license shall contain the following information:
 - (1) For each individual owner:
 - (a) True name and all other names used in the past five years;
 - (b) Date of birth;
 - (c) Permanent home address of the applicant;
 - (d) Business and home telephone numbers;
 - (e) A statement as to whether or not the owner has been convicted of any crime other than traffic offenses and, if convicted, the date and court of conviction, the specific crime convicted of, and the penalty imposed;
 - (f) A statement as to whether or not the owner has ever had ownership interest in a marijuana business, and, if so, the specific location of the business and the dates of such operation;

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(g) A statement as to whether or not the owner has been denied an application for a marijuana business license in any jurisdiction or has had such license suspended or revoked;

(h) The address and telephone number of the premises and the business, if different from the premises;

(i) The name under which the business and premises will be operated and verification of trade name filed with the Secretary of State;

(j) A statement as to whether or not the owner will directly operate the marijuana business, or whether an operator who is not an owner will operate it, and if the latter, the application shall contain information required by this section supplied in detail as to each such operator;

(k) A floor plan of the premises and the immediate vicinity drawn to scale, showing the square footage, interior dimensions, plans and specifications for the interior of the building, and layout for the business. Layout shall include, but is not limited to restricted access areas, principal uses for each floor area, areas of ingress and egress, and all security cameras;

(l) A map showing all schools, playgrounds, churches, and public parks within a radius of 500 feet of the premises;

(m) The name, address and telephone number of the agent of the business upon whom service of process can effectively and validly be made; and

(n) A security plan that the business intends to install, employ and operate to meet all requirements pursuant to R.C. Chapter 3796 including policies and procedures to ensure a secure, safe facility to prevent theft, loss, or diversion and protection of facility personnel.

(B) When making application for a license to operate in the City, all Marijuana Cultivator & Processing Facilities and Marijuana Dispensaries shall provide the City with a copy of the following documents:

(1) A copy of a license issued by the State of Ohio Division of Cannabis allowing for the cultivation, processing or retail sale of marijuana prior to opening.

(2) A copy of a signed lease, letter of intent, or deed for the property where the marijuana retail establishment is proposed to operate.

(3) A photocopy of the applicant's driver's license or other government-issued identification.

(4) Verification the business is registered to conduct business in Ohio with the Secretary of State.

(C) In order to obtain a license from the City, all Marijuana Cultivator & Processing Facilities must also submit to the City a plan approved by a professional engineer or industrial hygienist, explaining plans for reducing marijuana odors associated with cultivation, manufacturing, or processing of marijuana, which shall include, at a minimum, contact information, operating hours, a floor plan, a description and schedule of odor-producing activities, administrative controls such as employee training and maintenance, and engineering controls such as carbon filtration.

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§ 126.05 Determination and Appeal Process

- (a) The Mayor shall, within fourteen days of the receipt of an application for a license either issue such license or deny such license. The Mayor has the authority to refuse to issue any license for good cause. The determination of good cause lies in the sole discretion of the Mayor.
- (b) Appeal to City Council. If the Mayor declines to issue a license, an applicant may appeal that decision to City Council which shall either adopt or reject the determination of the Mayor regarding the denial of a license hereunder. If City Council reverses the decision of the Mayor, it shall only do so by the affirmative votes of not less than two-thirds of its members.
- (c) Appeal to Court. The decision of City Council may be appealed to a court of competent jurisdiction pursuant to R.C. Chapter 2506.

§ 126.06 License Renewal

- (a) Each license shall be renewed bi-annually.
- (b) At the time of renewal, a statement shall be filed with the City that the information listed on the original application for the license is still complete, accurate and truthful to the best knowledge of all applicants, or a statement shall be filed with the City listing each and every item of information which has changed since the original application.
- (c) The City may deny the renewal of a license for good cause. The determination of good cause shall lie in the sole discretion of the City.

§ 126.07 Denial of a Business License

No business license shall be issued or renewed for any business or premises where any of the following facts or circumstances exist:

- (a) The applicant or an owner has been found guilty of any offense set forth in R.C. Chapters 2925, 3719, or 4729, the violation of which constitutes a felony or misdemeanor of the first degree.
- (b) The applicant or an owner has been found guilty of any theft offense set forth under division (K) of R.C. § 2913.01, the violation of which constitutes a felony.
- (c) The applicant or an owner has been found guilty of any violation for which a penalty was imposed under R.C. § 3715.99.
- (d) The applicant or an owner has been found guilty of a crime of moral turpitude as defined in R.C. § 4776.10.
- (e) A violation of any former law of this state, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in divisions (a) through (d) of this section.
- (f) Any first-degree misdemeanor offense listed in divisions (a) through (e) of this section will not automatically disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed. Notwithstanding anything to the contrary in this section, no misdemeanor offense, including misdemeanors of the first degree, related

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to marijuana possession, marijuana trafficking, illegal cultivation of marijuana, illegal use or possession of drug paraphernalia or marijuana drug paraphernalia, or other marijuana related crimes shall be considered a disqualifying offense.

(g) The premises do not have adequate security installed, employed and operated to address any and all safety concerns of the City.

(h) The premises are located within 500 feet of any school, playground, church, or public park.

(i) The premises or operation thereof would be in violation of any provision of the Building Code, Zoning Code, Fire Code of the City or any other pertinent provisions of local, state or federal law.

(j) The applicant made a false statement or misrepresentation as to a material matter upon the application or in a hearing concerning the license.

(k) The application failed to provide all of the required information.

(l) The applicant has failed to demonstrate compliance with this chapter and all other applicable state and local ordinances and statutes.

§ 126.08 License Expiration, Suspension or Revocation

(A) Expiration. Any business license issued under this Chapter shall expire upon the transfer or sale of a majority interest in the business, or the discontinuation of the business for a continuous period of thirty days after opening. Any business license issued under this Chapter shall expire upon the transfer or sale of such business.

(B) Suspension and Revocation. All licenses issued under this Chapter shall be suspended or revoked upon recommendation of the Mayor upon the Mayor's finding of the occurrence of any of the following events:

(1) A false statement by any licensee as to a material matter made in an application for license or in a hearing concerning the license;

(2) Conviction of any licensee for any crime referenced in Section 126.07.

(C) The failure of an applicant for a Marijuana Cultivator & Processing Facility or a Marijuana Dispensary to commence operations within 180 days from receiving the license from the City may result in the license being revoked by the City.

(D) Any suspension or revocation under this section shall be subject to the appeals process set forth in Section 126.05.

§ 126.09 Penalty

Unless otherwise provided herein, whoever violates any of the provisions of this Chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed to have been committed each day during or on which a violation occurs or continues.