

ORDINANCE NO. 2017-49

INTRODUCED BY: COUNCILWOMAN WEISS

AN ORDINANCE ENACTING CODIFIED ORDINANCE CHAPTER 874 ENTITLED “MEDICAL MARIJUANA OPERATIONS,” ENACTING CODIFIED ORDINANCE CHAPTER 1284 ENTITLED “MEDICAL MARIJUANA DISPENSARIES,” AND AMENDING CODIFIED ORDINANCE SECTION 1266.02 ENTITLED “USE REGULATIONS” AND THE SCHEDULE THERETO, TO REGULATE MEDICAL MARIJUANA CULTIVATORS, PROCESSORS, DISPENSARIES AND TESTING LABORATORIES.

WHEREAS, on September 8, 2016, Ohio House Bill 523 (codified in Ohio Revised Code Chapter 3796) took effect, codifying a statewide medical marijuana control program under which licensed medical marijuana cultivators, processors, dispensaries and testing laboratories could legally operate within the state;

WHEREAS, the City of University Heights has the power to regulate and license Medical Marijuana Dispensaries pursuant to Ohio Revised Code Section 3796 and pursuant to its exercise of police powers for furtherance and protection of the health, safety, and general welfare of the residents of University Heights;

WHEREAS, this Council has determined that Medical Marijuana Dispensaries should be able to locate within University Heights so that residents may access this form of medical relief in order to reduce or eliminate pain and suffering caused by the severe medical conditions identified by the Ohio legislature as qualifying for medical marijuana treatment; and

WHEREAS, this Council has determined that the business regulations set forth herein shall ensure the safe and secure operation of Medical Marijuana Dispensaries within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, OHIO THAT:

Section 1. New Codified Ordinance Chapter 874 entitled “Medical Marijuana Operations” is hereby enacted and shall read in its entirety as follows.

CHAPTER 874
Medical Marijuana Operations

- 874.01 Purpose.
- 874.02 Definitions.
- 874.03 Applicability.
- 874.04 Prohibition on certain medical marijuana operations.
- 874.05 Medical marijuana dispensary license required.
- 874.06 Medical marijuana dispensary license application.
- 874.07 Issuance of medical marijuana dispensary license.
- 874.08 Fees.
- 874.09 Inspection.
- 874.10 Expiration and renewal of license.
- 874.11 License suspension.
- 874.12 License revocation.
- 874.13 Appeal rights.
- 874.14 Transfer of license.
- 874.15 Regulations pertaining to the operation of medical marijuana dispensaries.
- 874.16 Loitering and exterior lighting and monitoring requirements.
- 874.17 Injunction.
- 874.18 Effect of partial invalidity.
- 874.19 Change in information.
- 874.99 Penalty.

874.01 PURPOSE.

The purposes of this chapter are to establish limitations on medical marijuana operations within the City and to establish reasonable and uniform regulations to minimize and control any negative secondary effects of medical marijuana dispensaries within the City, all in order to promote the health, safety, and welfare of the citizens of the City.

874.02 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," and "public park" shall have the same meanings as in R. C. 3796.30.
- (c) "Disqualifying offense," "cultivator," "processor," "dispensary," and "testing laboratory" shall have the same meanings as in Ohio Admin. Code 3796:1-1-01 or subsequent similar regulations.
- (d) "Licensee" means, with respect to a medical marijuana dispensary license issued under this chapter, a person in whose name a license to operate a medical marijuana dispensary has been issued, 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 operating 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.
- (g) "Transfer of ownership or control" of a medical marijuana dispensary shall mean any of the following:
 - (1) The sale, lease, sublease or assignment of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (3) The establishment of a trust, gift, management contract or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (h) "Director" shall mean the Safety Director, "Commissioner" shall mean the Building Commissioner, and "Chief" shall mean the Chief of Police of the City.

874.03 APPLICABILITY.

Businesses subject to this chapter are medical marijuana cultivators, processors, dispensaries and testing laboratories.

874.04 PROHIBITION ON CERTAIN MEDICAL MARIJUANA OPERATIONS.

- (a) No person shall operate a medical marijuana cultivator or processor in the City.
- (b) Any person who violates this section shall be guilty of a misdemeanor of the first degree.

874.05 MEDICAL MARIJUANA DISPENSARY LICENSE REQUIRED.

- (a) No person shall operate a medical marijuana dispensary without a valid medical marijuana dispensary license issued by the City pursuant to this chapter.
- (b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor of the first degree.

874.06 MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION.

- (a) An application for a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter.
- (b) An application for a medical marijuana dispensary license shall identify and be signed by the following persons:
 - (1) If the business entity is owned by an individual, that individual.
 - (2) If the business entity is owned by a corporation, each officer or director of the corporation, any individual owning or controlling more than 50 percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed medical marijuana dispensary or greater ownership interest in the corporation.
 - (3) If the business entity is owned by a limited liability company, each member of the limited liability company, and any person who will be principally responsible for the operation of the proposed medical marijuana dispensary on behalf of the limited liability company.
 - (4) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed medical marijuana dispensary.
- (c) An application for a medical marijuana dispensary license must designate one or more individuals to be principally responsible for the operation of the proposed medical marijuana dispensary, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed medical marijuana dispensary on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.
- (d) An application for a medical marijuana dispensary license shall be completed according to the instructions on the application form, which shall require the following:
 - (1) If the applicant is:
 - A. An individual, state the legal name and any aliases of such individual;
 - B. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or

- C. A joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or
 - D. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.
 - E. A limited liability company, state the complete name of the limited liability company and the date of its organization, provide evidence that the company is in good standing under the laws of its state of organization, and state the names of all members, the name of the registered statutory agent, and the address of the registered office for service of process.
- (2) If the applicant intends to operate the medical marijuana dispensary under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
- (3) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has been convicted of a disqualifying offense, and if so, the specified offense and the date, place, and jurisdiction of each such conviction.
- (4) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the medical marijuana dispensary for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director or 10 percent or greater owner of a corporation licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (5) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.
- (6) State the location of the proposed medical marijuana dispensary, including a legal description of the property, street address, and telephone number(s), if any.
- (7) State the mailing address and residential address of each applicant and each person signing the application.
- (8) Submit a current, valid retail dispensary license or provisional dispensary license issued to the applicant by the state board of pharmacy under the provisions of R. C. Chapter 3796 and the regulations promulgated thereunder.
- (9) Submit a security plan for review and approval by the Chief. The security plan shall be on a form or in a manner prescribed by the Chief and shall include, at a minimum, a lighting plan that identifies how the interior, façade, adjoining sidewalks, parking areas and immediate surrounding areas of the dispensary will be illuminated and how the lighting will deflect light away from adjacent properties; and an identification of operable cameras, alarms, security guards and other security measures to be present on the premises whether during or outside business hours. The security plan should address the applicant's proposed use of armed security guards, video surveillance and door, building and parking lot security as appropriate. The applicant shall supply all additional information requested by the Chief necessary for the Chief to evaluate the security plan.

(10) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.

(11) Submit proof that each applicant who is a natural person is at least 18 years old.

(12) Submit a sketch or diagram showing the configuration of the premises of the medical marijuana dispensary. The diagram shall also designate the place at which the dispensary license will be conspicuously posted, if issued. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

874.07 ISSUANCE OF MEDICAL MARIJUANA DISPENSARY LICENSE.

(a) Within five days of receipt of an application for a medical marijuana dispensary license, the Director shall notify the Commissioner and the Chief of such application. In making such notifications, the Director shall request that the Chief promptly investigate the information provided in the application and shall request that the Chief and Commissioner promptly inspect the premises for which the medical marijuana dispensary license is sought in order to assess compliance with the regulations under their respective jurisdictions.

(b) The Chief and the Commissioner shall begin their respective investigations and inspections promptly upon receipt of notice of an application from the Director. The Chief and Commissioner shall provide the results of their investigations, including written certifications of whether the premises and applicants are in compliance with the laws and regulations under their respective jurisdictions, to the Director, in writing, within 60 days of receipt of notice of the application.

(c) The Commissioner's inspection of the premises for which a medical marijuana dispensary license is sought shall include an investigation as to whether the premises are in compliance with the Ohio Basic Building Code, the University Heights Zoning Code, the University Heights Building and Housing Code, and the provisions of this chapter related to physical characteristics of the premises.

(d) Within 90 days after receipt of a completed medical marijuana dispensary license application, the Director shall approve or deny the issuance of a license. The Director shall approve the issuance of a license to an applicant unless he or she determines that one or more of the following findings is true:

(1) An applicant who is a natural person is under 18 years of age.

(2) An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has falsely answered a question or request for information on the application form.

(3) No person identified in the application pursuant to Section 874.06(b) or Section 874.06(c) of this chapter has been denied a license to operate a medical marijuana dispensary or has had a license to operate a medical marijuana dispensary revoked within the preceding 12 months by any jurisdiction.

(4) No person identified in the application pursuant to Section 874.06(b) or Section 874.06(c) of this chapter has been convicted of a disqualifying offense.

(5) The proposed medical marijuana dispensary would violate or fail to be in compliance with any provisions of the University Heights Zoning Code, Building and Housing Code or General Offenses Code, or state statute or regulation.

(6) The application and investigation fee or a prior license fee required by this chapter has not been paid in full.

(7) An applicant is in violation of or is not in compliance with any provision of this chapter, except as provided in subsection (e)(1) of this section.

(e) If the Director determines that one or both of the following findings is true, the license issued pursuant to subsection (d) of this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

(1) The results of inspections of the premises by the Chief or the Commissioner indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions, including the provisions of this chapter related to characteristics of the physical premises. This subsection shall not apply to premises that are in violation of any law or regulation that is identified or referenced in subsections (d)(1) through (d)(7) hereof.

(2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(f) If the Director determines that no other grounds for denial of a license exist under subsection (d) hereof, the Director shall not delay approval of the application past the end of the 90-day period provided in this section solely because the Chief has not provided the Director with the results of his inspection of the premises; the results of the Commissioner's inspection of the premises are not available; or the Chief has not completed his investigation of the criminal background of the applicant(s). If, after approving the issuance of a license, the Director receives information from this investigation which he determines constitutes grounds for denial of a license under subsection (d) hereof, then the medical marijuana dispensary license issued pursuant to this section (f) hereof shall be immediately revoked. If after approving the issuance of a license, the Director receives information concerning the results of inspections of the premises by the Chief, or the Commissioner's inspection, which the Director determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under subsection (e) hereof, then a requirement shall be added to the terms of the medical marijuana dispensary licenses issued pursuant to this subsection (f) hereof to correct all deficiencies noted within 120 days of the date such requirement is added.

(g) A medical marijuana dispensary license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the licensed medical marijuana dispensary. All medical marijuana dispensary licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(h) The Director shall advise the applicant in writing of the reasons for any license denial.

874.08 FEES.

(a) Every application for a new medical marijuana dispensary license shall be accompanied by a \$350.00 non-refundable application and investigation fee.

(b) Every application for renewal of a medical marijuana dispensary license shall be accompanied by a \$250.00 non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required in subsection (a) or (b) hereof, every applicant that is granted a medical marijuana dispensary license (new or renewal) shall pay to the City an annual, non-refundable, non-prorated license fee in the amount of \$25,000.00 within 30 days of license issuance or renewal, plus an amount equaling two percent of the licensee's gross annual sales above the amount of \$1,250,000.00, which the licensee shall calculate at the expiration of the license or renewal term using sales figures from the licensee's state-mandated reporting forms, and which the licensee

shall pay to the City within 60 days of the expiration of any term (new or renewal) of the license. The licensee shall give the Director or his or her designee(s) an opportunity to review the data and basis upon which the licensee has calculated fees due under this section.

874.09 INSPECTION.

- (a) The City Police Department and Commissioner shall, from time to time, inspect each medical marijuana dispensary licensed under the provisions of this chapter that is open to the public in order to assess compliance with the provisions of this chapter.
- (b) An applicant or licensee shall permit the Commissioner or designees and the Chief or designees, as well as representatives of other city departments and divisions, to inspect a medical marijuana dispensary that is open to the public for the purpose of insuring compliance with the law, during times that it is occupied or open for business.
- (c) An applicant or licensee shall subject the application to denial or the license to revocation if he or she refuses to permit such lawful inspection of the premises.

874.10 EXPIRATION AND RENEWAL OF LICENSE.

- (a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than 90 days and no fewer than 30 days before the expiration date. If application is made fewer than 30 days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.
- (b) An application for renewal of a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 874.06 of this chapter. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.

Sketches or diagrams and security plans submitted with an initial medical marijuana dispensary license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram and security plan still depict the premises and plan accurately.

- (c) The Director shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under Section 874.07 of this chapter.
- (d) The Director shall advise the applicant in writing of the reason(s) for any denial of a license renewal.
- (e) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. If the City finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the denial was issued.

874.11 LICENSE SUSPENSION.

- (a) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee:
 - (1) Has violated or is not in compliance with any section of this chapter, or
 - (2) Has authorized or approved an employee's violation of or failure to comply with any section of this chapter, or as a result of the licensee's negligent failure to supervise the premises of the medical marijuana dispensary or a medical marijuana dispensary has allowed an employee to violate or fail to comply with any section of this chapter.
- (b) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee or his employee or agent has refused to allow an inspection of the licensed medical marijuana dispensary premises as authorized by this chapter.
- (c) The Director shall advise the licensee in writing of the reason(s) for any suspension.

874.12 LICENSE REVOCATION.

- (a) The City shall revoke a medical marijuana dispensary license if a cause of suspension under Section 874.11 of this chapter occurs and the license has been suspended two times within the preceding 12 months.
- (b) The City shall revoke a medical marijuana dispensary license if it determines that:
 - (1) A licensee gave false or misleading information in the material submitted during the application process;
 - (2) The licensee(s) failed to comply with any requirement stated in the license, pursuant to Section 874.07(g) of this chapter, to correct specified deficiencies within 120 days;
 - (3) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed, possession, use, or sale of controlled substances (except medical marijuana) on the premises;
 - (4) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed the commission of a felony on the premises;
 - (5) A licensee operated the medical marijuana dispensary during a period of time when the licensee knew or reasonably should have known that the licensee's license was suspended, or when the licensee no longer maintained a dispensary license issued by the state board of pharmacy;
 - (6) A licensee has been convicted of a specified criminal activity, as defined in Section 874.02 of this chapter, during the term of the license; or
 - (7) A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due that were assessed or imposed in relation to any business.
- (c) The Director shall advise the licensee in writing of the reason(s) for any revocation.
- (d) When the City revokes a license, the licensee shall not be issued another license for one year from the date of the revocation became effective. If the City finds, subsequent to revocation, that the basis for the revocation has been

corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

874.13 APPEAL RIGHTS.

- (a) Any denial, suspension, or revocation of a new or renewal license under this chapter may be appealed to the City of University Heights Board of Zoning Appeals by written notice within 10 days of such denial, suspension or revocation. Unless the applicant requests a longer period, the Board of Zoning Appeals must hold a hearing on the appeal within 30 days and must issue a decision affirming or reversing the denial, suspension, or revocation within five days after the hearing.
- (b) Any decision by the Board of Zoning Appeals shall be a final appealable order and the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction pursuant to general law.
- (c) Any licensee lawfully operating a medical marijuana dispensary prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to operate said business during the pendency of an appeal of a decision rendered under this chapter to the Board of Zoning Appeals or to a court.
- (d) In the event that an applicant for a new medical marijuana dispensary license seeks judicial review of the denial of a new license, there shall be no automatic stay of the denial.

874.14 TRANSFER OF LICENSE.

A medical marijuana dispensary license is not transferable from one licensee to another or from one location to another. Any purposed transfer of a medical marijuana dispensary license shall automatically and immediately revoke the license.

874.15 REGULATIONS PERTAINING TO THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES.

- (a) No person may operate or cause to be operated a medical marijuana dispensary without complying with the following requirements:
 - (1) The medical marijuana dispensary shall be operated in accordance with all applicable laws, rules and regulations promulgated by the state.
 - (2) The parcel upon which the dispensary is operated shall not at the time the original dispensary license is issued be located within 500 feet from any parcel on which sits a school, church, public library, public playground or public park.
 - (3) Consultations by medical professionals shall not be permitted at a dispensary.
 - (4) Signs shall be posted on the outside of the dispensary and shall only contain the name of the business, limited to two colors.
 - (5) The dispensary shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
 - (6) The use of any vending machine which allows access to medical marijuana is prohibited. For purposes of this subsection (a)(6), a vending machine is any device which allows access to medical marijuana without a human intermediary.
 - (7) The premises of every medical marijuana dispensary shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illuminated level of not less than five foot-candles as measured at floor level.

(8) No medical marijuana dispensary shall be operated in any manner that permits the observation from outside the premises of 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.

(9) Any material change to information provided in the licensee's application including, but not limited to, changes to the security plan must be promptly communicated, in writing, to the Director.

(10) If, at any time, the licensee is subject to any enforcement action by the state, the licensee shall immediately notify the Director and shall provide any relevant information or documentation requested by the Director.

(11) If, at any time, the licensee has a reasonable belief that an actual loss, theft or diversion of medical marijuana or currency worth or amounting to more than \$100.00 has occurred, the licensee shall immediately notify the Director, and in any event such notification shall be provided no later than 24 hours after discovery of the loss, theft or diversion.

(b) Except as otherwise provided in this paragraph, any person who violates subsection (a) hereof, or any person who operates a medical marijuana dispensary and permits a violation of subsection (a) hereof on the premises, shall be guilty of a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of subsection (a) hereof, a violation of subsection (a) of this section will be considered a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of subsection (a) of this section, a violation of subsection (a) hereof will be considered a misdemeanor of the first degree.

874.16 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

(a) It shall be the duty of the operator of a medical marijuana dispensary to:

(1) Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the medical marijuana dispensary is located;

(2) Post conspicuous signs stating that no loitering is permitted on such property;

(3) Monitor the activities of persons on such property by visually inspecting such property or inspecting such property by use of video cameras and monitors; and

(4) Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring and to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

874.17 INJUNCTION.

Any person who operates or causes to be operated a medical marijuana dispensary in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations under the Codified Ordinances of the City.

874.18 EFFECT OF PARTIAL INVALIDITY.

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.

874.19 CHANGE IN INFORMATION.

During the pendency of any application for, or during the term of, any medical marijuana dispensary license, the applicant or licensee shall promptly notify the Director in writing of any change in any material information given by the applicant or licensee in the application for such license, including specifically, but without limitation, any change in managers of the medical marijuana dispensary establishment or in the individuals identified in the application pursuant to this chapter; or if any of the events constituting grounds for suspension or revocation pursuant to this chapter occur.

874.99 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 698.03 of the Codified Ordinances of the City of University Heights.
- (b) Each day that a medical marijuana dispensary operates in violation of this chapter is a separate offense or violation.

Section 2. New Codified Ordinance Chapter 1284 entitled “Medical Marijuana Dispensaries” is hereby enacted and shall read in its entirety as follows.

CHAPTER 1284
Medical Marijuana Dispensaries

- 1284.01 Purpose.
- 1284.02 Definitions.
- 1284.03 Location of medical marijuana dispensaries.
- 1284.04 Design guidelines for medical marijuana dispensaries.
- 1284.05 Off-street parking.
- 1284.06 Sign regulations for medical marijuana dispensaries.
- 1284.07 Licensing.
- 1284.08 Revocation; renewal.
- 1284.09 Severability.

1284.01 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.

1284.02 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,” and “public park” shall have the same meanings as in R.C. 3796.03.
- (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 874, 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 operating 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.

(g) “Director” shall mean the Safety Director.

1284.03 LOCATION OF MEDICAL MARIJUANA DISPENSARIES.

(a) Medical marijuana dispensaries may be located only in the U-9 Cedar Center District as a specially permitted use pursuant to Chapter 1266 and in accordance with the restrictions contained in this chapter.

(b) No medical marijuana dispensaries may be established or operated within 500 feet of a school, church, public library, public playground, or public park in the City.

(c) No medical marijuana dispensary may be establish, operated or enlarged within 500 feet 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, and the floor area of any medical marijuana dispensary in any building, structure, or portion thereof containing another medical marijuana dispensary may not be increased.

(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, church, public library, public playground, or public park.

1284.04 DESIGN GUIDELINES FOR MEDICAL MARIJUANA DISPENSARIES.

(a) Parking for a medical marijuana dispensary shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned and/or used property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening and shall conform to the design requirements set forth in Chapter 1266 of the Building Code and be approved by the Architectural Board of Review. Landscaping and screening shall be continuously maintained and promptly restored, if necessary, pursuant to Section 1266.11.

(b) Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.

(c) All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.

(d) All exterior site and building lighting, which shall be provided, must be approved by the Architectural Board of Review pursuant to Chapter 1246 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential.

(e) Any medical marijuana dispensary adjacent to a residential district and/or use shall contain a minimum six-foot-high solid fence along such abutting property lines and be approved by the Architectural Board of Review pursuant to Chapter 1246.

(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 of 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 standard criteria and fulfill any additional standard requirements typically associated with obtaining a special 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.

1284.05 OFF-STREET PARKING.

Off-Street parking for a medical marijuana dispensary shall be provided, pursuant to Chapter 1272.

1284.06 SIGN REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES.

(a) All signs for a medical marijuana dispensary shall be "wall signs" as defined in Section 1270.09 of the Planning and Zoning Code and shall be constructed and located in conformance with all applicable provisions of Chapter 1270 of the Planning and Zoning Code.

(b) All signs for a medical marijuana dispensary if illuminated shall be in conformance with Section 1270.98 of the Planning and Zoning Code and meet all applicable provisions of Section 1270.09 as regards conditions and materials.

(c) All signs for a medical marijuana dispensary shall be maintained in accordance with Chapter 1270 of the Planning and Zoning Code and may be ordered to be removed in accordance with the provisions of Section 1270.98.

(d) No merchandise or pictures of the products or entertainment on the premises of a medical marijuana dispensary shall be displayed on signs, in window areas of 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.

(e) Window areas of a medical marijuana dispensary shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign shall be placed on the door to state hours of operation. Additional signage to conform to the requirements Section 874.16 may be permitted.

(f) All signs for a medical marijuana dispensary must first be approved by the City's Architectural Review Board.

1284.07 LICENSING.

Medical marijuana dispensaries as described in this Chapter 1284 herein shall be licensed and operated pursuant to Chapter 874.

1284.08 REVOCATION; RENEWAL.

(a) Notwithstanding anything in this chapter or section to the contrary, any special use permit application for a medical marijuana dispensary shall be heard by the Planning Commission and subject to review and approval by Council and, if approved, shall expire 12 months from the date of issuance. Subsequent renewal of the special use permit may be made administratively by the 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 special 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 Director. Renewal applications must be submitted in writing at least 30 days prior to expiration of the permit. The special use permit for a medical marijuana dispensary is non-transferable.

(c) Notwithstanding anything in this chapter or section to the contrary, any special use permit granted for a medical marijuana dispensary may be revoked by the Board of Zoning Appeals after referral to the Board of Zoning Appeals by the Director and after a public hearing on whether violations have occurred or the spirit and intent of the special use permit has not been met. Notice of such hearing shall be sent to the licensee and to others pursuant to Section 1244.06 of this Code as if a zoning appeal were filed or requested.

1284.09 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.

Section 3. Codified Ordinance Section 1266.02 entitled “Use Regulations” is hereby amended to read in its entirety as follows.

1266.02 USE REGULATIONS.

Buildings and land shall be used, and buildings shall be designed, erected, altered, moved, or maintained, in whole or in part in the U-9 District only for the uses permitted herein.

- (a) A use listed in Schedule 1266.02 shall be permitted by right in the U-9 district when denoted by the letter “P” provided that all requirements of other city ordinances and this zoning code have been met;
- (b) A use listed in Schedule 1266.02 shall be permitted as a special use in the U-9 district when denoted by the letters “SP”, provided the Planning Commission first makes the determination that the requirements of either Chapter 1274 or Chapters 874 and 1284, as applicable, have been met;
- (c) A use listed in Schedule 1266.02 shall be permitted as an accessory use in the U-9 district when denoted by the letter “A.” Such accessory uses shall be permitted as a subordinate use when it is clearly incidental to and located on the same zoning lot as the principal building or use.

Section 4. Codified Ordinance Section 1266.02 as existing prior to the enactment of this ordinance is hereby repealed.

Section 5. Codified Ordinance Schedule 1266.02 entitled “Schedule of Uses” is hereby amended to read in its entirety as follows.


Schedule 1266.02 Schedule of Uses

LAND USE CATEGORY	U-9 DISTRICT
(A) Residential	
(1) Multi-Family (including apartments and townhouses, which may be above retail or office uses)	P
(2) Nursing Home, Senior Citizen Living Facilities and other similar congregate care facilities	SP
(B) Offices	
(1) Administrative, Professional and Business	P
(2) Medical Offices, Urgent Care Centers and Hospitals	SP
(3) Sales Offices	P
(C) Retail/Services	
(1) Retail in completely enclosed buildings	P
(2) Financial Institutions without drive through facilities	P
(3) Automated Teller Machines (walk-up access)	P
(4) Personal services in completely enclosed building	P
(5) Restaurants without drive through facilities	P
(6) Parking Garages as Principal Use of a lot	SP
(7) Outdoor sales/displays, including dining	SP
(8) Drive-up/Drive through windows when associated with a use otherwise permitted in this District	SP
(9) Medical Marijuana Dispensary	SP
(D) Community Services and Facilities	
(1) Libraries and Museums	P
(2) Theater – Community/Movie	P
(3) Amphitheaters, Gazebos or other similar landscape feature	SP
(4) Assembly Hall, Meeting Place	P
(E) Accessory Uses	
(1) Accessory Parking Garages and off street parking areas	A
(2) Signs	A

Section 6. Codified Ordinance Schedule 1266.02 as existing prior to the enactment of this ordinance is hereby repealed.

Section 7. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

CITY OF UNIVERSITY HEIGHTS, OHIO



MICHAEL DYLAN BRENNAN, MAYOR

FIRST READING: 12/18/2017

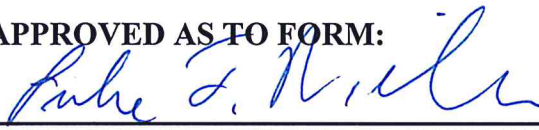
PASSED: 01/02/2018

ATTEST:



KELLY M. THOMAS, CLERK OF COUNCIL

APPROVED AS TO FORM:



LUKE F. MCCONVILLE, LAW DIRECTOR