

May 30, 2024

SAFETY COMMITTEE

June 3, 2024

Council Chambers

5:45 P.M.

Following Service Committee

Committee and Council Meetings can be viewed by accessing YouTube

AGENDA

1. Consider **Ordinance No. 24-20** AN ORDINANCE AMENDING CHAPTER 850 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, TO IMPOSE LICENSING REQUIREMENTS FOR ADULT USE MARIJUANA FACILITIES, TO LIMIT THE NUMBER OF MARIJUANA DISPENSARIES OPERATING WITHIN THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.
2. Other items at the discretion of the chair

BY _____

AN ORDINANCE AMENDING CHAPTER 850 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, TO IMPOSE LICENSING REQUIREMENTS FOR ADULT USE MARIJUANA FACILITIES, TO LIMIT THE NUMBER OF MARIJUANA DISPENSARIES OPERATING WITHIN THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Newark, Ohio, in an effort to regulate and control the operation of various types of businesses within the boundaries of the City has enacted various licensing requirements for the health, safety and welfare of the community; and,

WHEREAS, the State of Ohio, by passage of Issue 2 in November of 2023, enacted Chapter 3780 of the Ohio Revised Code; and,

WHEREAS, Chapter 3780 of the Ohio Revised Code establishes the Division of Cannabis Control within the Department of Commerce; and,

WHEREAS, to ensure the proper oversight and control of the adult use cannabis industry, the Division of Cannabis Control has the authority to license, regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories and individuals required to be licensed; and,

WHEREAS, the City of Newark is considering enactment of certain zoning restrictions to allow for the operation of adult use marijuana facilities for the cultivation, processing, and dispensing of adult use marijuana in an effort to allow this new industry to operate within the City in an orderly, safe, and appropriate matter; and,

WHEREAS, there are currently no local regulations governing the operation of adult use marijuana facilities within the City of Newark and the City recognizes a need to license, monitor, and regulate the operation of such facilities, licensed by the State of Ohio, throughout the City; and,

WHEREAS, this matter was considered by the Safety Committee of this Council who passed the same on to full Council for consideration; and,

WHEREAS, this Ordinance is hereby deemed an emergency pursuant to Charter Article 4.06 in that it is necessary for the immediate preservation of the public peace, health, safety, or welfare of the citizens of the City of Newark, Ohio.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, AND STATE OF OHIO, THAT THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, ARE HEREBY AMENDED TO READ AS SET FORTH HEREIN:

SECTION 1. Chapter 850 of the Codified Ordinances of the City of Newark, Ohio, is hereby amended to read as follows:

850.01 DEFINITIONS.

As used in this chapter:

~~(a) "Medical marijuana cultivator" means an entity that has been issued a certificate of operation by the Ohio Department of Commerce to grow, harvest, package, and transport medical marijuana as permitted under R.C. Chapter 3796.~~

~~—(b) "Medical marijuana dispensary" means an entity licensed pursuant to R.C. §§ 3796.04 and 3796.10 and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.~~

~~(c) (A) "Medical marijuana facility" means any DISPENSARY, CULTIVATOR, PROCESSOR OR TESTING LABORATORY AS THOSE TERMS ARE DEFINED AT SECTION 3796:1-1-01(A) OF THE OHIO ADMINISTRATIVE CODE, OR ANY OTHER RECIPIENT OF A CERTIFICATE OF OPERATION AS THAT TERM IS DEFINED AT SECTION 3796:1-1-01(A)(6) OF THE OHIO ADMINISTRATIVE CODE. business operation defined herein as a medical marijuana dispensary, medical marijuana cultivator, or medical marijuana processor.~~

~~(d) "Medical marijuana processor" means an entity that has been issued a certificate of operation by the Ohio Department of Commerce to manufacture medical marijuana products.~~

(B) "ADULT USE MARIJUANA FACILITY" MEANS ANY ADULT USE DISPENSARY, ADULT USE CULTIVATOR, ADULT USE PROCESSOR, ADULT USE TESTING LABORATORY, OR ADULT USE CANNABIS OPERATOR AS THOSE TERMS ARE DEFINED IN SECTION 3780.01(A) OF THE OHIO REVISED CODE OR ANY OTHER LICENSE HOLDER AS THAT TERM IS DEFINED AT SECTION 3780.01(A)(26).

(C) "MARIJUANA FACILITY" MEANS ANY MEDICAL MARIJUANA FACILITY OR ADULT USE MARIJUANA FACILITY.

850.02 LICENSE REQUIRED.

(A) No person or other entity shall operate any marijuana facility in the City of Newark, Ohio without first obtaining a VALID license pursuant to this chapter

issued by the Director of Public Safety PURSUANT TO THIS CHAPTER THAT IS VALID, ACTIVE AND IN GOOD STANDING WITH THE CITY.

(B) PURSUANT TO AUTHORITY GIVEN UNDER OHIO REVISED CODE SECTION 3780.25, THE CITY'S ISSUANCE OF ADULT USE MARIJUANA DISPENSARY LICENSES WILL BE LIMITED TO THE THREE (3) LICENSED MEDICAL MARIJUANA DISPENSARIES AT THEIR CURRENT LOCATIONS IN OPERATION AT THE TIME OF THE PASSAGE OF THIS ORDINANCE.

850.03 APPLICATION REQUIREMENT.

~~Any person or other entity SEEKING licensed by the State of Ohio Department of Commerce to operate any medical marijuana facility within the City shall submit an application for a license from the Director of Public Safety TO OPERATE ANY MARIJUANA FACILITY MUST BE LICENSED BY THE STATE OF OHIO AND IN COMPLIANCE WITH ALL APPLICABLE STATE AND CITY REGULATIONS, SPECIFICALLY INCLUDING BUT NOT LIMITED TO THE ZONING CODE OF THE CITY OF NEWARK. THE APPLICATION SHALL BE FILED on a form and in such a manner as mandated by the Director OF PUBLIC SAFETY. In addition to any other information required by the Director, each applicant for a license shall provide to the Director of Public Safety copies of all documents required by and filed with the State of Ohio AND PROOF OF LICENSURE. If additional documentation is required by the State of Ohio Department of Commerce following the issuance of a provisional license, then the additional documentation along with proof of permanent licensure status and all state licensing information, shall be provided by the applicant to the Director of Public Safety.~~

850.04 LICENSE FEES.

(A) Initial fees APPLICATION AND FEE. Any person or other entity applying for a license to operate a ~~medical~~ marijuana facility shall, before the issuance thereof, pay to the City of Newark an application fee of five hundred dollars (\$500.00). IF A MARIJUANA FACILITY DESIRES TO OPERATE AS BOTH A MEDICAL AND ADULT USE MARIJUANA, THEN AN APPLICATION FEE OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH TYPE OF APPLICATION WILL BE ASSESSED. ~~If the license issued by the State of Ohio Department of Commerce is issued after January 31 of any calendar year in which an applicant submits an application for a medical OR ADULT USE marijuana facilities facility license with the Director of Public Safety as required herein, such application fee shall be prorated, per diem, after such date.~~ ANY LICENSE ISSUED HEREUNDER BY THE DIRECTOR OF PUBLIC SAFETY SHALL BE VALID FOR THE REMAINDER OF THE CALENDAR YEAR IN WHICH IT WAS ISSUED AND EXPIRE ON DECEMBER 31ST. APPLICATIONS FILED AFTER THE FIRST OF JANUARY FOR ANY GIVEN YEAR SHALL PAY THE FULL ANNUAL LICENSING FEE AS SET FORTH HEREIN WITHOUT ANY PRO-RATING OF THE FEE BASED UPON DATE AND TIME OF APPLICATION.

(B) RENEWAL APPLICATIONS AND FEES. AT LEAST FORTY-FIVE (45) DAYS PRIOR TO THE RENEWAL DEADLINE OF JANUARY 1ST OF EACH SUCCESSIVE YEAR, THE DIRECTOR OF PUBLIC SAFETY SHALL NOTIFY, BY REGULAR U.S. MAIL, ANY PERSON OR ENTITY OPERATING A MARIJUANA FACILITY IN THE CITY PURSUANT TO A LICENSE ISSUED UNDER THIS CHAPTER, OF THE OBLIGATION TO SUBMIT THE REQUIRED ANNUAL RENEWAL APPLICATION AND FEE AS MANDATED HEREUNDER. ANY PERSON OR ENTITY SEEKING TO RENEW THEIR MEDICAL OR ADULT USE MARIJUANA LICENSE FOR THE FOLLOWING YEAR MUST FILE A RENEWAL APPLICATION WITH THE DIRECTOR OF PUBLIC SAFETY AND PAY A FEE OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH TYPE OF LICENSE TO BE RENEWED ON OR BEFORE THE FIRST DAY OF JANUARY OF THE YEAR FOR WHICH THE RENEWAL IS SOUGHT.

~~ANY PERSON OR ENTITY ISSUED A LICENSE TO OPERATE A MARIJUANA FACILITY BY THE DIRECTOR OF PUBLIC SAFETY WHO FAILS TO FILE A RENEWAL APPLICATION ON OR BEFORE JANUARY 1ST OF EACH YEAR WILL BE CHARGED A LATE FEE OF FIVE HUNDRED DOLLARS (\$500.00) AND COULD BE SUBJECT TO THE CRIMINAL PENALTIES LISTED UNDER 850.08 OF THIS CHAPTER. IN ADDITION TO THE APPLICATION FEE DUE AT THE TIME OF FILING. IF THE RENEWAL APPLICATION, APPLICATION FEE, AND LATE FEE ARE NOT RECEIVED BY THE DIRECTOR OF PUBLIC SAFETY ON OR BEFORE JANUARY 31ST OF EACH YEAR, THE PERSON OR ENTITY WILL BE ORDERED BY WRITTEN NOTICE TO CEASE OPERATIONS OF THE FACILITY UNTIL THE REQUIRED APPLICATION ALONG WITH APPLICABLE FEES ARE SUBMITTED TO AND APPROVED BY THE DIRECTOR OF PUBLIC SAFETY. IF THE PERSON OR ENTITY CONTINUES TO OPERATE THE FACILITY AFTER JANUARY 31ST OF EACH YEAR WITHOUT RENEWING SAID LICENSE TO OPERATE, THEY ARE IN VIOLATION OF SECTION 850.02 AND MAY BE SUBJECT TO CRIMINAL CHARGES WITH THE PENALTIES LISTED IN SECTION 850.08.~~

~~(b) Renewal Fee. Should the licensed medical marijuana facility remain in operation and remain properly licensed by the State of Ohio Department of Commerce, the license issued hereunder by the City of Newark Director of Public Safety shall automatically renew annually upon payment of a renewal fee of five hundred dollars (\$500.00) payable on or before the 31st day of January of every successive calendar year in which the licensed medical marijuana facility remains in operation.~~

~~(c) Non-Renewal Penalty. At least thirty days prior to the renewal deadline of January 31st of each successive calendar year, the Director of Public Safety shall notify, by regular U.S. Mail, any person or entity operating a medical OR ADULT USE marijuana facility in the City pursuant to a license issued hereunder of the obligation to submit the required annual renewal fee as mandated~~

~~hereunder. If the renewal fee is not received on or before the 31st of January of any successive year as required hereunder, an additional fee of five hundred dollars (\$500.00) will be imposed upon the person or entity operating such medical marijuana facility. If the renewal fee remains unpaid after notice and after the 31st of March of any such year, an additional fee of five hundred dollars (\$500.00) will be imposed upon the person or entity operating such medical marijuana facility for every thirty days thereafter and until such time as the renewal fee is paid in full.~~

850.05 APPLICATION UPDATE REQUIREMENT; LICENSE REVOCATION; APPEALS.

Any person or entity operating a licensed ~~medical~~ marijuana facility in the City pursuant to a license issued hereunder shall be subject to an ongoing and continuing obligation to provide updated and current application information to the Director of Public Safety, including but not limited to any additional documents required by and filed with the State of Ohio ~~Department of Commerce~~. Any failure on the part of any person or entity operating a licensed ~~medical~~ marijuana facility in the City pursuant to a license issued hereunder, to comply with all laws and regulations of the State of Ohio ~~Department of Commerce~~, Ohio Department of Taxation, or other applicable State agency, or in full compliance with all other laws of the City of Newark, Ohio ~~could~~ MAY result in the revocation of the license previously issued hereunder ~~at the discretion of~~ BY the Director of Public Safety. APPEALS OF DECISIONS BY THE DIRECTOR OF PUBLIC SAFETY UNDER THIS CHAPTER SHALL BE GOVERNED BY OHIO REVISED CODE CHAPTER 119.

850.06 IMPLIED CONSENT TO SEARCH.

Any person or other entity operating a ~~medical~~ marijuana facility pursuant to a license issued hereunder by the Director of Public Safety shall be deemed to have given consent to the random and unannounced search of the licensed premises by the Director of Public Safety or his designee to ensure that such facility is in full compliance with all licensing and operational requirements of the State of Ohio THROUGH THE Department of Commerce AND THE CITY OF NEWARK. NO PERSON OPERATING A MARIJUANA FACILITY SHALL REFUSE ENTRY TO THE DIRECTOR OF PUBLIC SAFETY OR THE DIRECTOR'S DESIGNEE TO CONDUCT SUCH COMPLIANCE CHECK IN ACCORDANCE WITH THIS SECTION.

850.07 ISSUANCE OF LICENSE AND GROUNDS FOR REFUSAL TO ISSUE LICENSE.

(A) THE DIRECTOR OF PUBLIC SAFETY SHALL REFUSE TO ISSUE A LICENSE UNDER THIS CHAPTER TO ANY MARIJUANA FACILITY THAT IS: (1) NOT PROPERLY LICENSED BY THE STATE OF OHIO; (2) IS FOUND TO BE NON-COMPLIANT WITH ANY APPLICABLE STATE OR CITY

REGULATIONS OR CODES; (3) IS LOCATED IN AN AREA WHERE THAT TYPE OF MARIJUANA FACILITY IS A PROHIBITED USE OR NOT OTHERWISE A PERMITTED OR CONDITIONAL USE PURSUANT TO THE ZONING CODE OF THE CITY OF NEWARK; OR (4) HAS NOT RECEIVED APPROVAL AS A CONDITIONAL USE FROM THE BOARD OF ZONING APPEALS.

(B) THE DIRECTOR OF PUBLIC SAFETY MAY REFUSE TO ISSUE A LICENSE UNDER THIS CHAPTER TO ANY MARIJUANA FACILITY FOR REASONS OTHER THAN THOSE LISTED IN SECTION (A) ABOVE PENDING REVIEW BY COUNCIL AT A PUBLIC HEARING AS SET FORTH BELOW. THE DIRECTOR SHALL NOTIFY THE CLERK OF COUNCIL OF THE REFUSAL. UPON RECEIVING SUCH NOTICE, THE CLERK SHALL NOTIFY THE APPLICANT OF THE PENDING REFUSAL AS WELL AS THE DATE, TIME, AND LOCATION OF THE REQUIRED PUBLIC HEARING, WHICH SHALL BE SET NO LESS THAN FIFTEEN (15) DAYS AND NO MORE THAN THIRTY (30) DAYS FOLLOWING THE DIRECTOR'S NOTICE OF REFUSAL. COUNCIL WILL REVIEW THE REASONS SET FORTH FOR THE REFUSAL AND EITHER AFFIRM OR OVERTURN THE DECISION OF THE DIRECTOR BY A MAJORITY VOTE OF COUNCIL MEMBERS. IF SUCH REFUSAL RELATES TO A RENEWAL APPLICATION FOR AN EXISTING MARIJUANA FACILITY, THEN SUCH FACILITY MAY CONTINUE TO OPERATE SO LONG AS THE MATTER IS PENDING WITHOUT VIOLATING THIS CHAPTER. OPERATION OF SUCH FACILITY AFTER THE MATTER IS CONCLUDED WILL DEPEND UPON THE DECISION OF COUNCIL.

(C) EXCEPT AS SET FORTH IN SECTION 850.07(B) OF THIS CHAPTER, THE DIRECTOR SHALL ISSUE A LICENSE TO ANY MARIJUANA FACILITY THAT IS: (1) LICENSED BY THE STATE OF OHIO TO OPERATE AS A MARIJUANA FACILITY; (2) IN FULL COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND ANY OTHER APPLICABLE CITY REGULATIONS OR CODES; AND (3) LOCATED IN AN AREA WHERE THAT TYPE OF MARIJUANA FACILITY IS PERMITTED AS A PERMITTED OR CONDITIONAL USE PURSUANT TO THE ZONING CODE OF THE CITY OF NEWARK; AND (4) HAS RECEIVED APPROVAL AS A CONDITIONAL USE FROM THE BOARD OF ZONING APPEALS.

850.08 PENALTIES.

WHOEVER VIOLATES OR FAILS TO COMPLY WITH SECTIONS 850.02 OR 850.06 OF THIS CHAPTER IS GUILTY OF A FIRST-DEGREE MISDEMEANOR AND SHALL BE FINED NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000.00) AND INCARCERATED FOR NOT MORE THAN SIX (6) MONTHS FOR EACH OFFENSE. A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OR NONCOMPLIANCE OCCURS OR CONTINUES.

SECTION 2. All other sections of the Codified Ordinances of the City of Newark, Ohio, not specifically addressed within this Ordinance shall remain in full force and effect as written.

SECTION 3. This Ordinance shall take effect immediately as an emergency for the reasons as stated herein pursuant to Newark City Charter Article 4.07 and remain in full force and effect thereafter.

Passed this _____ day of _____, 2024.

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

DATE FILED WITH MAYOR: _____

DATE APPROVED BY MAYOR: _____

MAYOR _____

FORM APPROVED: _____
Director of Law

Prepared by the Office of the Director of Law