

BEREA CITY COUNCIL

City of Berea, Ohio

ORDINANCE NO. 2024- __

By: _____ Sponsor: Councilman Gene Zacharyasz

AN ORDINANCE

AMENDING SECTION 206.02, OF CHAPTER 206, BR-CD WEST BAGLEY ROAD COMMERCIAL ZONING DISTRICT, CHAPTER 400, DEFINITIONS, AND THE LAND USE MATRIX IN SECTION 200.07, TABLE 1, OF THE ZONING CODE OF THE CITY OF BEREA, ENACTED BY ORDINANCE NO. 2012-29, ADOPTED MAY 7, 2012, IN ORDER TO ALLOW FOR THE SALE OF ADULT USE CANNABIS AND MEDICAL MARIJUANA IN THE CITY OF BEREA.

WHEREAS, at the general election on November 7, 2023, Ohio voters approved State Issue 2, which legalized and provided for the regulation of recreational marijuana for adults aged 21 and above, including cultivation, processing, sale, purchase, possession, and home growth; and

WHEREAS, Issue 2 was a citizen-initiated proposal and approved by a majority of Ohio voters, including 67.13% of Berea voters; and

WHEREAS, Revised Code Section 3780.25 authorizes the legislative authority of a municipal corporation to prohibit or limit the number of cannabis operations within its jurisdiction; and

WHEREAS, this Council has, pursuant to Ordinance No. 2024-23, banned cannabis cultivation and cannabis processing operations; and

WHEREAS, this Council is supportive of allowing one (1) adult use cannabis or dual-use cannabis dispensary in the City of Berea; and

WHEREAS, this Council desires to regulate this dispensary in order to promote the health, safety and welfare of the citizens of Berea.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That Section 206.02(C), of Chapter 206, BR-CD West Bagley Road Commercial Zoning District, which has heretofore read as follows:

- (C) Substantially Similar Uses. Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.

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shall be, and the same is hereby amended in its entirety to read as follows:

- (C) Adult Use Cannabis Dispensary and Dual-Use Cannabis Dispensary. Adult use cannabis dispensaries and dual-use cannabis dispensaries shall be permitted in this district and must comply with the requirements contained in this Chapter: No more than one (1) dispensary is permitted in the City of Berea.
- (1) Adult use cannabis dispensaries and dual-use cannabis dispensaries, as defined in this Chapter, shall be permitted, provided the proposed location of such use is more than five hundred (500) feet from all the following uses:
- (a) Any church, synagogue, permanently established place of worship, public or private school, public library, licensed day care facility, public park and public playground.
- (2) Measurement of Distances Between Uses.
- (a) The measure of distance for purposes of this subsection shall be from the nearest portion of the building or structure used as the part of the premises where an adult use cannabis dispensary or dual-use cannabis dispensary is conducted, to the nearest property line of the premises along the shortest possible course, regardless of any customary or common route or path of travel. The Zoning Administrator shall consider only: (1) whether the adult use cannabis dispensary or dual-use cannabis dispensary is seeking to locate in a BR-CD District; and (2) whether the proposed location of said dispensary or dual-use meets the minimum distance (in feet) from the uses listed in (C)(1) of this subsection.
- (b) The determination shall be made without a public hearing being held and must be made within ten days of the receipt of a completed application for a zoning permit.
- (c) An applicant or an aggrieved party may appeal a decision of the Zoning Administrator to the Planning Commission pursuant to Chapter 103. Such appeal must be made within 30 days of the claimed adverse decision.
- (3) Adult use cannabis dispensary and dual-use cannabis dispensary Business Signage.
- (a) All signs for adult use cannabis dispensaries and dual-use cannabis dispensaries shall be wall signs as defined in Section 303.03 of this Code and must be approved by the Municipal Planning Commission.
- (b) All wall signs for adult use cannabis dispensaries and dual-use cannabis dispensaries shall be maintained in accordance with Section 303.12 of this Code and may be ordered to be removed in accordance with the provisions of that Chapter.
- (c) No merchandise or pictures of the products on the premises of an adult use cannabis dispensary or dual-use cannabis dispensary shall be displayed on signs, in window areas or 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 or decoration.

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- (d) A one-square foot sign may be placed on the door to state hours of operation.
- (4) Adult use cannabis dispensary and dual-use cannabis dispensary. For the purpose of regulating adult use cannabis dispensary and dual-use cannabis dispensary as set forth under this Zoning Code, the following definitions shall apply:
 - (a) “Adult use cannabis” shall have the same meaning as “marijuana” as defined in Ohio Revised Code Section 3719.01.
 - (b) “Dual-use cannabis” shall be defined as both adult use cannabis and medical marijuana.
 - (c) “Medical marijuana” shall be defined as marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.
 - (d) “Dispensary” shall have the same meaning as in Ohio Administrative Code 3796:1-1-01 or subsequent similar regulations.
 - (e) “Licensee” shall mean a person in whose name a license to operate an adult use cannabis dispensary or dual-use cannabis dispensary has been issued, as well as the individual (s) designated on the license application as principally responsible for the operation of the adult use cannabis dispensary or dual-use cannabis dispensary.
 - (f) “School”, “Church”, “Public Library”, “Public Park”, and “Public Playground” shall have the same meanings as in Ohio Revised Code Section 3796.30.
- (5) Visibility from a Street and Other Public Places. No merchandise, photos, illustrations, representations or pictures of the dual-use cannabis products offered on the premises may be displayed in an area where such items can be viewed from any sidewalk, public right-of-way, other public or semi-public space, or any building or structure adjoining or adjacent to the adult use cannabis dispensary or dual-use cannabis dispensary.
- (6) 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 that the City’s rules, regulations and/or permitting requirements impose a greater obligation on a licensee than State, the local provisions shall be enforced.
- (D) Substantially Similar Uses. Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.

SECTION 2. That Chapter 400, Definitions, of the Zoning Code of the City of Berea be amended to include the following:

CANNABIS DISPENSARY. See related definitions in Chapter 206.

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SECTION 3. That the category of Retail and Office, in the Land Use Description of Table 1, Land Use Matrix Chart of Permitted and Conditional Uses, in Section 200.07, Permitted and Conditionally Permitted Uses, of Chapter 200, Zoning Districts and Zoning Map, be amended to include Adult Use Cannabis Dispensary and Dual-Use Cannabis Dispensary as Permitted uses in the BR-CD Zoning District, as shown below:

Table 1: Land Use Matrix Chart of Permitted and Conditional Uses

Land Use Description	R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI
Retail & Office														
General Merchandise Sales	-	-	-	-	P	P	P	P	P	P	P	-	C	-
Used Merchandise Sales	-	-	-	-	P	P	P	P	P	P	P	-	C	-
Land Use Description	R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI
Retail & Office (continued)														
Antiques & Collectables Sales	-	-	-	-	P	P	P	P	P	P	P	-	-	-
Apparel & Shoes	-	-	-	-	P	P	P	P	P	P	P	-	C	-
Specialty Retail	-	-	-	-	P	P	P	P	P	P	P	-	-	-
Plant Sales (outdoor)	-	-	-	-	-	-	P	P	P	P	P	-	-	-
Guns and Ammunition Sales	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Video Store	-	-	-	-	-	P	P	P	P	P	P	-	-	-
Hardware Store	-	-	-	-	-	C	P	P	P	P	P	-	-	-
Electronic Equipment Sales	-	-	-	-	P	C	P	P	P	P	P	-	C	-
Paint, Wallpaper, Floor & Window	-	-	-	-	-	C	P	P	P	P	P	-	-	-
Carpet & Rug Stores	-	-	-	-	-	C	P	P	P	P	P	-	-	-
Adult Oriented Business	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Hotel & Motel	-	-	-	-	-	-	P	P	-	P	P	-	C	-
Bed and Breakfast Inn	-	-	-	-	C	C	P	C	-	C	C	-	C	-
Financial Institutions (with drive-thru)	-	-	-	-	-	-	C	P	C	P	C	-	C	-
Financial Institutions (with no drive-thru)	-	-	-	-	-	-	P	P	P	P	P	-	P	-
Automated Teller Machine (ATM)	-	-	-	-	C	C	C	C	C	C	C	-	P	-
Pawn Shop	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Loan Companies	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Check Cashing Service	-	-	-	-	-	-	-	-	P	-	-	-	-	-

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General Business Office	-	-	-	-	P	P	P	P	P	P	P	-	P	P
Professional Services Office	-	-	-	P	P	P	P	P	P	P	P	-	P	P
Architectural & Engineering Offices	-	-	-	-	P	P	P	P	P	P	P	-	-	-
Nursery School	-	-	-	-	C	C	C	C	C	C	C	-	C	-
Child Day Care & Learning Center	-	-	-	-	C	C	C	C	C	C	C	-	P	-
Home Operated Day Care (Type A)	C	C	-	-	-	-	-	-	-	-	-	-	-	-
Home Operated Day Care (Type B)	P	P	P	P	P	-	-	-	-	-	-	-	-	-
Home Occupation	C	C	C	C	C	C	C	C	C	C	C	-	-	-
Artist's Studio (Commercial)	-	-	-	P	P	P	P	P	P	P	P	-	-	-
Not-for-Profit Organization Office	-	-	-	-	P	P	P	P	P	P	P	-	P	P
Florists	-	-	-	-	P	P	P	P	P	P	P	-	-	-
Sweepstakes Terminal Cafe	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Roadside Stands	-	-	-	-	-	-	C	-	C	-	-	-	-	-
Flea Markets	-	-	-	-	-	-	C	-	-	-	-	-	-	-
Adult Use Cannabis Dispensary	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Dual-Use Cannabis Dispensary	-	-	-	-	-	-	-	-	P	-	-	-	-	-

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

President of Council

ATTEST: _____
Clerk of Council

APPROVED:

APPROVED AS TO FORM:

Mayor

Director of Law