

# BEREA CITY COUNCIL

*City of Berea, Ohio*

ORDINANCE NO. 2024- \_\_

By: \_\_\_\_\_ Sponsor: Councilman Gene Zacharyasz

## AN ORDINANCE

**REPEALING AND REPLACING 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 , AND AMENDING CHAPTER 400, DEFINITIONS, OF THE ZONING CODE OF THE CITY OF BEREА, ENACTED BY ORDINANCE NO. 2012-29, ADOPTED MAY 7, 2012, IN ORDER TO ALLOW FOR ONE CANNABIS DISPENSARY OF A DUAL-USE NATURE IN THE WEST BAGLEY ROAD COMMERCIAL ZONING DISTRICT (BR-CD) AND TO PROHIBIT CANNABIS OPERATIONS IN ALL OTHER ZONING DISTRICTS IN THE CITY OF BEREА.**

**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**, this Council desires to honor the decision made by a majority of Berea voters, while also regulating cannabis operations and sales in the City in order to promote the health, safety and welfare of the citizens of Berea, and to protect vulnerable and impressionable youth within our community; and

**WHEREAS**, the legal sale of recreational marijuana to adults is a new business venture in the City and the State, and neither the benefits nor the detriments of such an operational have been definitively determined; and

**WHEREAS**, Ohio 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**, in Ordinance No. 2024-23, Council also limited the number of cannabis dispensaries of any kind, to one; and

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**WHEREAS**, this Council finds that it would be inconsistent to permit adult-use marijuana in the City to the exclusion of medicinal use of marijuana; and

**WHEREAS**, this Council finds that the public interest is best served when such a dispensary provides access to both medical marijuana and to adult-use (recreational) marijuana; and

**WHEREAS**, throughout the extensive public discussion of cannabis operations, this Council has used the phrase “dual-use dispensary” to refer to a dispensary that provides access to both medical and adult-use marijuana; and

**WHEREAS**, this Council has determined that, after reviewing all Zoning Districts within the City, the BR-CD is the most appropriate zoning district in which to allow the sole cannabis dispensary in the City, as it provides a suitable distance from residential properties, is predominantly comprised of commercial enterprises, and offers prospective licensees a variety of locational options; and

**WHEREAS**, the BR-CD does not contain any schools, Churches, public libraries, public playgrounds or public parks which could, if present, create difficulty for prospective licensees looking to secure a location in the City, pursuant to Ohio Revised Code Chapters 3796 and 3780 and provides the greatest number of opportunities to operate a cannabis dispensary due to its distance from prohibited facilities located in adjacent zoning districts; and

**WHEREAS**, adult-use (recreational) marijuana is solely for adult-use and in accordance with Ohio law, no person under the age of 21 is legally able to purchase products or even enter such a dispensary; and

**WHEREAS**, the BR-CD is the only zoning district in the City permitted to allow adult-entertainment establishments, another operation that caters only to adults; and

**WHEREAS**, the BR-CD is divided by West Bagley Road, a major thoroughfare in the City that experiences enormous amounts of traffic on a daily basis; and

**WHEREAS**, this Council agrees that a dual-use cannabis dispensary can be a successful and profitable retail operation in the BR-CD; and

**WHEREAS**, for the reasons stated herein, this Council finds and determines that adult-use and/or a medical marijuana dispensary would be inappropriate in any zoning district other than the BR-CD.

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

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**SECTION 1.** That 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, as identified in Exhibit “A”, attached hereto and incorporated herein, is hereby repealed and replaced by the amended version of Table 1, identified in Exhibit “B”, attached hereto and incorporated herein, to include Dual-Use Cannabis Dispensary as a Permitted use in the BR-CD Zoning District, and to prohibit Adult-Use Cannabis Dispensaries, Medical Marijuana Dispensaries, Cannabis Cultivators and Cannabis Processors in all zoning districts within the City, pursuant to Ordinance No. 2024-23.

Adult-Use Cannabis Dispensary	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Medical Marijuana Dispensary	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dual-Use Cannabis Dispensary*	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Cannabis Cultivator	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cannabis Processor	-	-	-	-	-	-	-	-	-	-	-	-	-	-

\*Only one (1) cannabis dispensary of a dual-use nature shall be permitted in the BR-CD, pursuant to Ordinance No. 2024-23.

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

**ADULT-USE CANNABIS.** Marijuana, as defined in Ohio Revised Code Section 3719.01.

**MEDICAL MARIJUANA.** Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

**ADULT-USE CANNABIS DISPENSARY.** A place wherein a person or persons licensed pursuant to Section 3780.15 of the Ohio Revised Code, and any rules promulgated thereunder, sells adult-use cannabis as authorized.

**MEDICAL MARIJUANA DISPENSARY.** A place wherein person or persons licensed pursuant to Section 3796 of the Ohio Revised Code, and any rules promulgated thereunder, sells medical marijuana.

**DUAL-USE CANNABIS DISPENSARY.** A place wherein a person or persons licensed pursuant to Section 3780.15 of the Ohio Revised Code, and any rules promulgated thereunder, sells both adult-use cannabis and medical marijuana.

**CANNABIS CULTIVATOR.** A person or persons licensed pursuant to Ohio Revised Code Chapters 3780 and 3796 to grow and cultivate adult-use cannabis and/or medical marijuana.

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**CANNABIS PROCESSOR.** A person or persons who have been issued a processing certificate of operation pursuant to Chapter 3796 of the Ohio Revised Code and Chapter 3796 of the Administrative Code, to manufacture adult-use cannabis and/or medical marijuana.

**SECTION 3.** 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 4.** 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:

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Director of Law