

ORDINANCE NO.: 11-2017 (As revised 2/28/17)

INTRODUCED BY: ALEXANDER

AN ORDINANCE AMENDING SECTION 1151.03 "PERMITTED, CONDITIONAL AND SPECIFICALLY PROHIBITED USES", SECTION 1167.02 "PERMITTED USES", SECTION 1171.02 "PERMITTED USES", 1171.03 "USE RESTRICTIONS", SECTION 1123.06 "ZONING CODE DEFINITIONS LETTERS L-M", AND SECTION 1313.02 "PERMITTED FENCES", OF THE CODIFIED ORDINANCES OF THE CITY OF RICHMOND HEIGHTS TO REGULATE MEDICAL MARIJUANA USES; AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Richmond Height has determine that it is in the best interest of the City to permit the cultivation, processing, testing, and dispensing of medical marijuana within the City of Richmond Height within certain zoning districts in the City; and

WHEREAS, amendments to Sections 1151.02, 1167.02, 1171.02, 1171.03, 1123.06, and 1313.02 of the City's Codified Ordinances will be necessary in order to permit the cultivation, processing, testing, and dispensing of medical marijuana within certain commercial and industrial zoning districts in the City; and

WHEREAS, it is necessary for this Ordinance to go into effect immediately upon its passage for the reason that applications to the State of Ohio for grow/cultivation facilities will be available beginning March 1, 2017, will be due to be filed with the State within the month of May, 2017, and applicants will need to know as soon as possible whether a particular location that is being applied for is a jurisdiction within which medical marijuana grow/cultivation facilities are permitted.

NOW, THEREFORE, Be it ordained by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Existing Section 1151.03, "Permitted, Conditional and Specifically Prohibited Uses," of the Codified Ordinances of the City of Richmond Heights is hereby amended to hereinafter provide as follows with the added text set forth in boldface and underscored:

"1151.03 PERMITTED, CONDITIONAL AND SPECIFICALLY PROHIBITED USES.

Uses in the O-S, B-1 and B-2 Districts shall be as set forth in Table 1151.03.

Table 1151.03

Permitted, Conditional, and Specifically Prohibited Uses
O-S, B-1, and B-2 Districts

O-S Office-Service District	B-1 Local Business District	B-2 Regional Business District
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Permitted Uses		
<i>Office & Government Uses</i>		
Executive, administrative and professional offices. Government office buildings Public utility offices, but not including storage yards.	Executive, administrative and professional offices. Government office buildings Public utility offices, but not including storage yards.	Professional, administrative, executive , offices Government office buildings Public utility offices Sales offices, without merchandising services.
Medical offices, including clinics and medical laboratories.	Medical offices, including clinics and medical laboratories.	Medical offices, including clinics and medical laboratories.
<u>Dispensaries for Medical Marijuana</u>	<u>Dispensaries for Medical Marijuana</u>	<u>Dispensaries for Medical Marijuana</u>
Libraries	Libraries	Libraries
Facilities for human care such as hospitals	Facilities for human care such as hospitals	
	Post office and similar government buildings.	
<i>Retail and Service Uses</i>		
Establishments which perform personal services on the premises, such as beauty parlors and barber shops.	Establishments which perform personal or professional services on the premises such as beauty parlors, barber shops, repair shops including watches, radios, televisions, shoes and etc., but prohibiting major repair shops such as automotive, heavy equipment, large appliances, furniture, etc., tailor shops, self-service laundries and cleaners, dry cleaning and laundry establishments provided cleaning equipment is used to service only the premises at which it is located. Banks and similar financial institutions. photographic studios and interior decorating studios.	Service establishments, such as 1. Beauty and barber shops; laundry agencies; dry cleaning agencies, provided only non-explosive and noninflammable solvents shall be used, and provided no work shall be done on the premises for other outlets; self-service laundries Shoe and hat repair shops; Radio and television repair shops; Banks and savings and loan associations; Photographic studios; Automotive repair and parts accessory sales if accessory to a main building or use.
	Convenience stores of a generally recognized retail nature which supply commodities on the premises, such as but not limited to: Groceries, meats, dairy products, baked goods or other foods, Drugs, dry goods, clothing, notions hardware.	Retail stores conducted wholly within enclosed buildings offering products for sale to the following extent: Groceries, meats, fruits, vegetables All general merchandise, dry goods, notions; Wearing apparel, shoes, hats; Household hardware, wallpaper, paint furniture, appliances, floor covering Sporting goods Drugs, tobacco, periodicals Flowers, gifts, jewelry Sale, at licensed stores, of packaged alcoholic beverages not to be consumed on the premises
		Restaurant with no drive-through facility.
<i>Other Uses</i>		
Public or private schools or colleges.	Public or private schools or colleges.	
Facilities for human care such as convalescent and nursing homes	Facilities for human care such as convalescent and nursing homes	

Churches and related facilities.	Funeral homes.	
	Photographic reproduction, blueprinting and print shops.	
	Establishments of electricians, plumbers, heating contractors, bakers, painters or similar trades in conjunction with a retail sales operation.	

Accessory Uses

Accessory buildings or uses customarily incidental to any of the above permitted uses	Accessory buildings or uses customarily incidental to any of the above permitted uses	Accessory buildings or uses customarily incidental to any of the above permitted uses
<u>Dispensaries for Medical Marijuana associated with a cultivation, processing, or testing use on the same or a contiguous lot</u>		<u>Dispensaries for Medical Marijuana associated with a cultivation, processing, or testing use on the same or a contiguous lot</u>

Conditional Uses

O-S Office-Service District	B-1 Local Business District	B-2 Regional Business District
Restaurant	Bar, tavern, restaurant. Restaurant with outdoor dining or service. Restaurant with drive-through facility	Restaurant with outdoor dining or outdoor service. Drive-through facility prohibited.
Retail use accessory to a permitted or conditionally permitted use	Studios and classrooms for instruction in dance, yoga, martial arts, painting, sculpture, job skills, and similar	Amusement and recreation uses within an entirely enclosed soundproofed building, such as: (1) Assembly and meeting halls; (2) Bowling alleys, billiard halls; (3) Theaters.
Day care center	Day care center	Day care center
Banquet Facility	Hotel, motel	Hotel
	Indoor entertainment facilities that do not exceed 5,000 square feet of floor space for each individual business	
<u>Cultivation, processing, and testing of medical marijuana</u>		<u>Cultivation, processing, and testing of medical marijuana</u>
	Veterinary clinics and veterinary hospitals	Garden Center
	Banquet Facility	Drive-through facility
	Drive-through facility	Sweepstakes/Internet Café
Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations.	Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations.	Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations.
<i>Auto Repair & Service Uses</i>		
	Gasoline service stations as controlled by	

	Chapter 1165 and Chapter 1169.	
	Self-service auto laundries as controlled by Chapter 1165 and Chapter 1169.	
	Automotive major repair	
<i>Similar Use</i>		
See standards for Similar Use as a conditional use in Section 1169.08	See standards for Similar Use as a conditional use in Section 1169.08	See standards for Similar Use as a conditional use in Section 1169.08
Specifically Prohibited Uses		
O-S Office-Service District	B-1 Local Business District	B-2 Regional Business District
Dwelling units of all types are prohibited.	Dwelling units of all types are prohibited.	Dwelling units of all types are prohibited.
Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized according to the provisions of this Zoning Code.	Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized according to the provisions of this Zoning Code.	Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized according to the provisions of this Zoning Code.
Warehousing or indoor storage of goods or materials not incidental to the above permitted uses shall be prohibited.		

Section 2: Existing Section 1167.02, "Permitted Uses", of the Codified Ordinances of the City of Richmond Heights is hereby amended to hereinafter provide as follows with added text set forth in boldface and underscored:

"1167.02 PERMITTED USES.

In all I-1 Office Industrial Districts, no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

- (a) Administrative, executive and managerial office buildings.
- (b) Regional offices or home branch offices for regional, national and international corporations.
- (c) Office buildings for the use of any of the following occupations: law, medicine, engineering, drafting, writing, accounting, broadcasting, investing and other uses similar in nature.
- (d) Data processing and computer centers, including sales, service and maintenance of electronic and data processing equipment.
- (e) Warehousing, assembling and packaging of small electronic instruments and devices, toys, novelties and other small household items. Accessory buildings or uses customarily incidental to any of the above permitted uses, storage garage, off-street parking and permitted signs.
- (f) Cultivation, processing and testing of medical marijuana. Dispensaries of medical marijuana associated with the foregoing uses in this subsection (f) that are located on the same or contiguous lot are a permitted accessory use."**

Section 3: Existing Section 1167.02 "Permitted Uses," of the Codified Ordinances of

the City of Richmond Heights, be and the same is hereby amended to hereinafter provide as follows with added text set forth in boldface and underscored:

“1171.02 PERMITTED USES.

In all I-2 Industrial Districts no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

- (a) Basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
- (b) Research and office uses related to permitted manufacturing operations.
- (c) Warehousing and wholesale establishments.
- (d) Tool, die, gauge and machine shops.
- (e) The manufacture, compounding, processing, packaging or treatment of such products as cosmetics, pharmaceuticals, toiletries, food products, hardware and household supplies.
- (f) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones; sheet metal excluding large stampings such as automobile fenders or bodies, ferrous and nonferrous metals excluding large castings and fabrications, shell, textiles, tobacco, wax, wire, wood excluding saw and planing mills and yarns.
- (g) The manufacture of pottery, figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
- (h) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps or other small molded rubber products, not including pneumatic tires.
- (i) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.
- (j) Laboratories--experimental, film or testing.
- (k) Warehouse, storage and transfer uses and electric and gas service building, public utility buildings, telephone exchange buildings, electrical transformer stations and substations and gas regulator stations; provided that outside storage is not permitted for any of these uses.
- (l) Accessory buildings and uses.
- (m) Off-street parking and loading facilities; parking garages.
- (n) Maintenance and storage only within wholly enclosed buildings.
- (o) Permitted signs.
- (p) Administrative, executive and managerial office buildings.
- (q) Regional offices or home branch offices for regional, national and international corporations.
- (r) Office buildings for the use of any of the following occupations: law, medicine, engineering, drafting, writing, accounting, broadcasting, investing and other uses similar in nature.
- (s) Data processing and computer centers, including sales, service and maintenance of electronic and data processing equipment.

(t) Cultivation, processing, and testing of medical marijuana. Dispensaries of medical marijuana associated with the foregoing uses in this subsection (t) that are located on the same or contiguous lot are a permitted accessory use.

(t u) Accessory buildings or uses customarily incidental to any of the above permitted uses such as storage garage, off-street parking and permitted signs.

(uv) Other Uses. The Planning Commission may recommend and City Council may approve the establishment of additional uses which are not listed above and which are:

(1) Related and reasonably necessary and convenient for the satisfactory and efficient operation of a complete and integrated Office Industrial District; and

(2) Similar in character to one or more of the uses permitted by Section 1171.02, (a) through (tu).

The proposed use and any proposed conditions shall be fully described in a document submitted with the site plan. The Planning Commission may recommend and Council may approve or require any conditions deemed necessary to ensure the compatibility of the proposed use with the district.”

Section 4: Existing Section 1171.03, “Use Restrictions”, of the Codified Ordinances of the City of Richmond Heights is hereby amended to hereinafter provide as follows with added text set forth in boldface and underscored:

“1171.03 USE RESTRICTIONS.

(b) The processing of raw material for shipment in bulk form to be used in an industrial or commercial operation at another location is prohibited except for the processing of raw materials for legal pharmaceutical drugs and medical marijuana.

Section 5: Existing Section 1123.06, “Zoning Code Definitions Letters L-M,” of the Codified Ordinances of the City of Richmond Heights is hereby amended to hereinafter provide as follows with added text set forth in boldface and underscored. The existing subsections of Section 1123.06 shall be re-lettered beginning with new subsection (h).

“(h) Medical marijuana. Medical marijuana means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

- (1) **Cultivator.** 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 Chapter 3796 of the Ohio Revised Code.
- (2) **Dispensary.** Dispensary means an entity licensed pursuant to sections 3796.04 and 3796.10 of the Ohio Revised Code and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.

- (3) **Medical marijuana entity.** Medical marijuana entity means a licensed medical marijuana cultivator, processor, dispensary, or testing laboratory.
- (4) **Processor.** Processor means an entity that has been issued a certificate of operation by the Ohio Department of Commerce to manufacture medical marijuana products.
- (5) **Testing laboratory.** Testing laboratory means an independent laboratory located in Ohio that has been issued a certificate of operation by the Ohio Department of Commerce to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research, or analysis.”

Section 6: Existing Section 1313.02, “Permitted Fences”, of the Codified Ordinances of the City of Richmond Heights is hereby amended to add new subsection (e) to hereinafter provide as follows, with added text set forth in boldface and underscored:

“1313.02 PERMITTED FENCES.

(e) The Planning Commission has the authority to determine the height, design, and materials of fences located on lots used by medical marijuana entities without the requirement of the applicant for a fence permit seeking a variance from the provisions of this section.”

Section 7: Existing Section 1151.03 “Permitted, Conditional and Specifically Prohibited Uses”, Section 1151.04 “Permitted, Conditional and Specifically Prohibited Uses”, Section 1171.02 “Permitted Uses”, Section 1171.03 “Use Restrictions”, Section 1123.06 “Zoning Code Definitions Letters L-M”, and Section 1313.02 “Permitted Fences”, of the Codified Ordinances of the City of Richmond Heights and any and all ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed.

Section 8: It is found and determined that all formal actions of this Council concerning and relating to the adoption of the 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, including Section 121.22 of the Ohio Revised Code.

Section 9: This Ordinance is declared to be an emergency measure necessary to further the public health, safety and general welfare and for the reason as stated in the recitals to this Ordinance that applications for medical marijuana uses are due to be filed soon with the State of Ohio and applicants need to know whether such uses are permitted in the jurisdictions within which they are applying to place such a use and that municipal permits will be available; and, therefore, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED: Feb 28, 2017

David H. Roche
David H. Roche, Mayor

APPROVED: Feb 28, 2017

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council

Eloise Cotton-Henry
Eloise Cotton-Henry
President of Council