



CITY OF PATASKALA

ORDINANCE 2017-4291

Passed July 24, 2017

**AN ORDINANCE TO AMEND CHAPTER 1203 AND ADD CHAPTER 715 AND CHAPTER 1299 OF THE CODIFIED ORDINANCES OF THE CITY OF PATASKALA, AND REPEAL ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.**

*WHEREAS*, the proposed amendment would establish a definition and standards for medical marijuana facilities, cultivators and processors and adjust the lettering and numbering of the Code accordingly.

*WHEREAS*, the Pataskala City Council directed the City Administration to draft proposed regulations, as provided in the attached Exhibit A, and

*WHEREAS*, the proposed regulations would permit cultivation and processing businesses in the City of Pataskala and outline the process for approval of said businesses;

*WHEREAS*, the Council of the City of Pataskala has determined that it is necessary to amend the Zoning Code of the Codified Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF ALL MEMBERS ELECTED OR APPOINTED THERETO CONCURRING, THAT:**

**Section 1:** That Chapter 1203 be amended and Section 715 and Chapter 1299 be added to of the Zoning Code of the Codified Ordinances of the City of Pataskala to read as found in Exhibit A.

**Section 2:** 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 Council and that all deliberations of the Council and any of the decision making bodies of the City of Pataskala which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

**Section 3:** This Ordinance shall become effective from and after the earliest period allowed by the Charter of the City of Pataskala.

**ATTEST:**

  
Kathy M. Hoskinson, Clerk of Council

  
Michael W. Compton, Mayor

**Approved as to form:**

  
Brian M. Zets, Law Director

**Chapter 1203.03 - Definitions**

**Cultivator:** An individual, corporation, business association or other business entity that grows, harvests, packages, and/or transports medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

**Dispensary:** An individual, corporation, business association or other business entity that sells medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

**Local Provisional License:** a temporary license issued by the City of Pataskala to a medical marijuana entity that establishes conditions that must be met by the medical marijuana entity before a local operating license is issued.

**Local Operating License:** a license issued by the City of Pataskala to a medical marijuana entity. A medical marijuana entity shall not operate within the City of Pataskala without a valid local operating license.

**Marijuana:** All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

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

**Medical Marijuana Entity:** A medical marijuana cultivator or processor, as authorized by Chapter 3796 of the Ohio Revised Code.

**Processor:** An individual, corporation, business association or other business entity that manufactures medical marijuana products as authorized by Chapter 3796 of the Ohio Revised Code.

**Testing Laboratory:** An individual, corporation, business association or other business entity that conducts medical and scientific research on marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

**Prohibited Facility:** A schools, church, public library, public playground, or public park.

**Valid:** Not expired, suspended, or revoked.

**Chapter 1299**

**Medical Marijuana Facilities**

<b>1299.01 Purpose</b>	<b>1299.04 Basis of Approval</b>
<b>1299.02 Permitted</b>	<b>1299.05 Final Plan Amendments</b>
<b>1299.03 General Requirements</b>	

**CROSS REFERENCES**

Definitions – See P. & Z. 1203.03

Licensing – See Chapter 715

**1299.01 PURPOSE**

In addition to the licensing requirements of Chapter 715 of this Code, medical marijuana facilities shall be subject to the requirements defined in this Chapter.

**1299.02 PERMITTED**

Medical marijuana cultivators and processors, which are licensed under Ohio law and the City of Pataskala, shall be permitted only in the Planned Development District pursuant to Chapter 1255 of the Pataskala Code.

**1299.03 PROHIBITED**

Medical marijuana retail dispensaries, licensed under Ohio law, are hereby prohibited from locating and/or doing business within the City of Pataskala.

**1299.04 GENERAL REQUIREMENTS**

The following general requirements shall apply to all medical marijuana cultivators and processors:

- A. **Location:** Medical marijuana cultivators and processors shall be located a minimum of 500 feet from any of the following:
  - a. School
  - b. Religious institution
  - c. Public library
  - d. Public park
  - e. Public playground
  - f. Recreational facility
  - g. Daycare
- B. A minimum six (6) foot fence located around the perimeter of the property in addition to all waste disposal containers, disposal areas or compost areas located outside the facility.
- C. No medical marijuana cultivator or processor shall operate in the City of Pataskala unless the medical marijuana cultivator or processor possesses a valid state certificate of operation from the Ohio Department of Commerce.

- D. Medical marijuana cultivators and processors shall comply with all local and state laws pertaining to medical marijuana facilities, including all local and state licensing requirements.

**1299.05 BASIS OF APPROVAL**

In addition to the standards set forth in Chapter 1255 – Planned Development Districts and Section 1299.03 – General Requirements, the Planning and Zoning Commission and City Council shall consider the following criteria when considering an application for a medical marijuana cultivator or processor:

- A. The impact of the proposed use on public safety in the community.
- B. The impact of the proposed use on the economic welfare of the community.
- C. The impact of the proposed use on the general welfare of the community in regard to off-site impacts pursuant to Chapter 1287 of the Pataskala Code.
- D. The impact of the proposed use on any disproportional concentration of cultivation facilities or processing facilities in the community.

**1299.06 PLAN AMENDMENTS**

Amendments to an approved Preliminary or Final Development Plan shall be considered a zoning amendment and shall be reviewed pursuant to the procedures set forth in Section 1255.13.

CHAPTER 715

Licensing of Medical Marijuana Facilities

715.01	Definitions	715.12	Medical Marijuana Entity Consent
715.02	Applicability	715.13	Notification
715.03	Local Provisional License Required	715.14	Violation
715.04	Local Provisional License Application	715.15	Notice of Violation
715.05	Local Provisional License Approval	715.16	Suspension of Licenses
715.06	Local Operating License Required	715.17	Revocation of Licenses
715.07	Local Operating License Application	715.18	Ceasing of Operations
715.08	Local Operating License Approval	715.19	Right to Appeal
715.09	Local Operating License Renewal	715.20	City Council Authority
715.10	Local Operating License Renewal Approval	715.21	Limitation of Medical Marijuana Entities
715.11	Validity of Local Provisional and Local Operating Licenses	715.22	Penalty

CROSS REFERENCES

715.01 DEFINITIONS

Cultivator: An individual, corporation, business association or other business entity that grows, harvests, packages, and/or transports medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

Dispensary: An individual, corporation, business association or other business entity that sells medical marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

Local Provisional License: a temporary license issued by the City of Pataskala to a medical marijuana entity that establishes conditions that must be met by the medical marijuana entity before a local operating license is issued.

Local Operating License: a license issued by the City of Pataskala to a medical marijuana entity. A medical marijuana entity shall not operate within the City of Pataskala without a valid local operating license.

**Marijuana**: All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

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

**Medical Marijuana Entity**: A medical marijuana cultivator or processor as authorized by Chapter 3796 of the Ohio Revised Code.

**Processor**: An individual, corporation, business association or other business entity that manufactures medical marijuana products as authorized by Chapter 3796 of the Ohio Revised Code.

**Testing Laboratory**: An individual, corporation, business association or other business entity that conducts medical and scientific research on marijuana as authorized by Chapter 3796 of the Ohio Revised Code.

**Prohibited Facility**: A schools, church, public library, public playground, or public park.

**Valid**: Not expired, suspended, or revoked.

#### **715.02 APPLICABILITY**

No medical marijuana entity shall operate in the City of Pataskala unless the medical marijuana cultivator or processor possesses a valid local operating license pursuant to this chapter and a valid state certificate of operation from the Ohio Department of Commerce

#### **715.03 LOCAL PROVISIONAL LICENSE REQUIRED**

A medical marijuana entity seeking to obtain a local operating license under this chapter must first apply for a local provisional license. A medical marijuana entity may not receive a certificate of compliance unless, at the time such documents are issued, the entity possesses a valid provisional license.

#### **715.04 LOCAL PROVISIONAL LICENSE APPLICATION**

An application for a local provisional license shall be made to the City Administrator or his/her designee and shall include the following:

- a. The legal name of the applicant
- b. The type of business organization of the applicant, such as individual, corporation, partnership, limited liability company, association, cooperative, joint venture, or any other business organization.
- c. Confirmation that the applicant is registered with the Ohio Secretary of State as the type of business submitted pursuant to this rule, a certificate of good standing issued by the Ohio Secretary of State, and a copy of the applicable business documents governing the operations and administration of the business.

- d. The mailing address, email address, and phone number of the applicant, if the applicant is an individual, or the name, mailing address, email address, and phone number of a designated representative of the applicant, if the applicant is not an individual.
- e. If the applicant is currently, was previously, or has applied to be licensed or authorized in another state or jurisdiction to cultivate or process medical marijuana in any form, the following shall be required:
  - 1. A copy of each such licensing and/or authorizing document verifying licensure in that state or jurisdiction.
  - 2. A statement granting permission to contact the regulatory agency that granted the license, accompanied by the contact information, to confirm the information contained in the application.
  - 3. If the applicant was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a written statement that the applicant was so licensed and was never warned, fined, denied, suspended, revoked or otherwise sanctioned. This includes notification of any pending proceedings regarding warnings, fines, denials, suspensions, revocations, or other sanctions.
- f. With respect to any person presently or previously associated with the applicant, any instance in which such person managed or served on the board of a business and was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding in connection with such management or service, as well as information regarding the association between such person and the applicant.
- g. The proposed physical address of the applicant's medical marijuana entity and confirmation that the property is properly zoned for such use.
- h. A location area map of the area surrounding the proposed medical marijuana entity that establishes that the parcel on which the proposed facility will be located is at least 1,000 feet from the boundaries of a parcel having located upon it a prohibited facility as defined by Section 715.01.
- i. A disaster plan, in addition to any state requirements, that will be implemented in case of fire, flood, tornado, or other disaster to include the following:
  - 1. The methods and procedures to be followed by owners and operators of the medical marijuana entity and by local emergency responders in the case of a disaster.
  - 2. The designation of a medical marijuana entity coordinator for the facility and identification of the heads of the emergency response organizations.
  - 3. An identification of procedures for reliable, effective, and timely notification and communication among emergency responders in the event of a disaster.
  - 4. The development of methods and schedules for exercising the plan.
  - 5. Other information determined to be necessary by the City Administrator or his/her designee.
- j. A security plan to be reviewed and approved by the Pataskala Police Department.
- k. Any additional information determined to be necessary by the City Administrator or his/her designee.
- l. A non-refundable application fee of \$1,500.

**715.05 LOCAL PROVISIONAL LICENSE APPROVAL**

An application for a local provisional license shall be granted on approval of City Council by resolution only after meeting all requirements of Sections 715.02 thru 715.04, except as otherwise provided in this Chapter. Within one (1) year of receiving a local provisional license, a medical marijuana entity may apply for a local operating license. If a medical marijuana entity possessing a local provisional license has not applied for a local operating license within one (1) year, the local provisional license will expire and a medical marijuana entity seeking a local operating license will first need to submit a new application for a local provisional license.

#### **715.06 LOCAL OPERATING LICENSE REQUIRED**

No medical marijuana entity may operate within the City of Pataskala without a valid local operating license.

#### **715.07 LOCAL OPERATING LICENSE APPLICATION**

An application for a local operating license shall be made to the City Administrator or his/her designee and shall include the following:

- a. A copy of the provisional license application by the medical marijuana entity to the Ohio Department of Commerce under Chapter 3796 of the Ohio Revised Code
- b. A copy of the provisional license granted by the Ohio Department of Commerce under Chapter 3796 of the Ohio Revised Code to the medical marijuana entity at the address at which the facility is to be located.
- c. Confirmation that the medical marijuana entity is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
- d. Confirmation that the Pataskala Police Department has inspected the facility and approved security arrangements.
- e. Any additional information determined to be necessary by the City Administrator or his/her designee.
- f. A non-refundable application fee of \$5,000.
- g. A copy of the approved State of Ohio certificate of operation/ license.

#### **715.08 LOCAL OPERATING LICENSE APPROVAL**

An application for a local operating license shall be granted on the approval of City Council by resolution, only after meeting all requirements of Sections 715.06 and 7

15.07 except as otherwise provided in this Chapter. Every local operating license issued by City Council shall expire one (1) year after the date it was approved.

#### **715.09 LOCAL OPERATING LICENSE RENEWAL**

An application to renew a local operating license for a medical marijuana entity shall be submitted to the City Administrator or his/her designee at least 90 days prior to the expiration date of the local operating license. The renewal application shall include the following:

- a. Confirmation that the medical marijuana entity is conforming to all requirements under this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code.
- b. A copy of a valid certificate of operation issued by the Ohio Department of Commerce to the medical marijuana entity for the same address.
- c. Any additional information determined to be necessary by the City Administrator or t his/her designee.
- d. A non-refundable renewal fee of \$5,000.
- e. A copy of the approved State of Ohio certificate of operation/ license

#### **715.10 LOCAL OPERATING LICENSE RENEWAL APPROVAL**

An application for a renewal of a local operating license shall be granted on the approval of City Council at their discretion by resolution, except as otherwise provided in this Chapter.

#### **715.11 VALIDITY OF LOCAL PROVISIONAL AND LOCAL OPERATING LICENSES**

Both local provisional licenses and local operating licenses are valid only as to the particular medical marijuana entity listed in the Initial provisional license application. If the ownership of a medical marijuana entity changes, requiring a transfer of ownership application to the State of Ohio pursuant to Chapter 3976:2-1-08 of the Ohio Administrative Code, the medical marijuana entity shall notify the City Administrator or his/her designee. If the State of Ohio determines that the proposed ownership changes complies with Chapter 3796:2-1-08, the ownership change shall be permitted by the City of Pataskala under the existing local provisional license or local operating license. If the State of Ohio determines that a new state license application is required under Chapter 3976:2-1-08(B)(1)(d) of the Ohio Administrative Code, then the ownership change shall not be permitted by the City of Pataskala without a new provisional license and a new local operating license.

#### **715.12 MEDICAL MARIJUANA ENTITY CONSENT**

As part of the submission of an application that results in the issuance of a local provisional license or a local operating license, a medical marijuana entity irrevocably consents to the following:

- a. Any inspection by the City of Pataskala or the Pataskala police Department that is deemed necessary to ensure compliance to the medical marijuana entity with this Chapter, Chapter 3796 of the Ohio Revised Code, and Chapter 3796 of the Ohio Administrative Code. An inspection may be conducted with or without notice. During an inspection, a representative of the City of Pataskala or the Pataskala Police Department may:
  - 1. Review and make copies of all records maintained in accordance with rules 3796:2-2-08, 3796:3-2-08, 3796:6-3-18, and 3796:4-2-09 of the Ohio Administrative Code.
  - 2. Enter any area in the facility.
  - 3. Inspect facility vehicles.
  - 4. Review the policies and procedures of the medical marijuana entity, including methods of operating.
  - 5. Survey the premises and any off-site facilities.
  - 6. Inspect all equipment, instruments, tools, materials, machinery, or any other resource used to cultivate or process, medical marijuana.

7. Request access to locked areas in the facility.
8. Question licensed employees at the location.
9. Obtain samples for testing of any medical marijuana at the facility, media used to grow medical marijuana, chemicals and ingredients used in the cultivation process, any labels or containers for marijuana, or any raw packaged medical marijuana.

#### **715.13 NOTIFICATION**

- a. If a medical marijuana entity is subject to any enforcement action by the State of Ohio under Administrative Code Chapter 3796:5-6-01, the medical marijuana entity must immediately notify the City Administrator or his/her designee and provide any relevant information or documentation requested by the City Administrator or their designee.
- b. If a medical marijuana entity or an employee thereof has a reasonable belief that an actual loss, theft, or diversion of medical marijuana or currency over \$100 has occurred, the medical marijuana entity must immediately notify the Pataskala Police Department, and such notification shall be provided no later than 24 hours after the discovery of the loss, theft, or diversion.
- c. If any information related to a medical marijuana entity's local provisional license or local operating license changes, the medical marijuana entity must immediately notify the City Administrator or his/her designee.

#### **715.14 VIOLATION**

If, at any time, the City of Pataskala becomes aware that a medical marijuana entity possessing a local provisional license or a local operating license has engaged in, is engaged in, or is about to engage in any act or practice declared to be prohibited by this Chapter, Chapter 3796 of the Ohio Revised Code, Chapter 3796 of the Ohio Administrative Code, or any other local, state law, rule or regulation, , City Council may do any of the following:

- a. Refer such violations to the Ohio Department of Commerce
- b. Issue a warning to the medical marijuana entity, which may include possible corrective action.
- c. Suspend the license and require any violations to be resolved and corrective actions taken as conditions to the reinstatement of the suspended license.
- d. Revoke the license.

#### **715.15 NOTICE OF VIOLATION**

- a. A warning, suspension, or revocation issued by City Council under this Chapter shall be served upon the medical marijuana entity at the address for which a local provisional license and local operating license was granted by: personal service; by certified and then regular mail, if necessary; or by posting in a conspicuous location.
- b. Notice by certified mail shall be effective on upon acceptance. In the event that notice by certified mail is returned unclaimed or refused, mailing of the notice by regular mail shall be deemed effective upon mailing. Notice by personal service or by posting shall be deemed effective at the time of personal service or posting, respectively.

#### **715.16 SUSPENSION OF LICENSES**

- a. Suspension of licenses shall be accomplished only through the procedures outlined in this Section. Suspension shall be accomplished after a public hearing is held thereon by City Council, which hearing shall be held within 30 days after notice is given to the licensee of such hearing, by certified mail and then regular mail, if necessary. The licensee shall have the right to appear at such hearing, to be represented by counsel, and to have the right to examine and cross examine witnesses. Council may suspend a local license for reasons including, but not limited to, loss or expiration of a state certificate of operation/license, ongoing public nuisance issues, events that may harm the safety and health of the public, and illegal activities.
- b. Suspension may take place without a prior hearing if City Council finds clear and convincing evidence that the continued distribution of medical marijuana presents a danger of immediate and serious harm to others. Notice of the suspension shall be made as provided in this Chapter and a hearing on the merits of the suspensions shall take place within five (5) days of the suspension.
- c. The suspension will remain in effect, unless lifted by City Council, pending the results of the hearing. If City Council does not issue an order within 90 days after the hearing, the suspension shall be lifted on the 91<sup>st</sup> day following the hearing.
- d. As a condition of the reinstatement of a suspended license, City Council may require any violations to be resolved and reasonable corrective actions to be taken.

#### **715.17 REVOCATION OF LICENSES**

- a. Revocation of licenses shall be accomplished only through the procedures outlined in this section. Revocation shall be accomplished only after a public hearing is held thereon by City Council, which hearing shall be held within 30 days after notice is given to the licensee of such hearing, by certified mail and then regular mail, if necessary. The licensee shall have the right to appear at such hearing, to be represented by counsel, and to have the right to examine and cross examine witnesses. Council may revoke a local license for reasons including, but not limited to, loss or expiration of a state certificate of operation/license, ongoing public nuisance issues, events that may harm the safety and health of the public, and illegal activities.
- b. If a medical marijuana entity's local provisional license or local operating license is revoked, the medical marijuana entity will coordinate with the City Administrator or their designee and the Ohio Department of Commerce in the closing of the facility as provided for in the Ohio Administrative Code.

#### **715.18 CEASING OF OPERATIONS**

A medical marijuana entity must immediately cease operations upon suspension, revocation, or expiration of a local operating license.

#### **715.19 RIGHT TO APPEAL**

In the event of a decision or ruling adverse to a licensee or license applicant regarding a denial, revocation, or suspension of a license, the licensee or license applicant shall have the right to appeal such decision and ruling to a court of competent jurisdiction, under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

#### **715.20 LIMITATION OF MEDICAL MARIJUANA ENTITIES**

For a period of 36 months following the effective date of this Chapter, City Council shall limit the number of medical marijuana entities to no more than:

- a. Two (2) Level One medical marijuana cultivators
- b. Two (2) Level Two medical marijuana cultivators
- c. Two (2) Level One medical marijuana processors
- d. Two (2) Level Two medical marijuana processors

After the 36 month period following the effective date of this Chapter has elapsed, City Council shall limit the number of medical marijuana entities to no more than:

- a. Five (5) Level One medical marijuana cultivators
- b. Five (5) Level Two medical marijuana cultivators
- c. Five (5) Level One medical marijuana processors
- d. Five (5) Level Two medical marijuana processors

**715.21 PENALTY**

Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the first degree.

