

AN ORDINANCE AMENDING IN PART O-35-96, SECTION 1113.02 OF THE CITY OF CORTLAND CODIFIED ORDINANCE TO DEFINE MEDICAL MARIJUANA DISPENSARY, CULTIVATOR, CULTIVATOR LEVEL I, CULTIVATOR LEVEL II AND PROCESSOR AS DEFINED BY THE OHIO REVISED CODE

WHEREAS, on January 9, 2018, the City of Cortland Planning, Zoning & Building Commission recommended to Council that it is in the best interest of the City of Cortland to amend Section 1113.02 to define Marijuana Dispensary, Cultivator, Cultivator Level I , Cultivator Level II and Processor as defined by the Ohio Revised Code; and,

WHEREAS, pursuant to Cortland City Charter Section 6.05, Council held a public hearing on Tuesday, February 20, 2018 with a minimum twenty (20) day notice in a newspaper of general circulation; and,

WHEREAS, the authority to amend in part the original Ordinance O-35-96 to change Part Eleven, Planning and Zoning Code of the City of Cortland Codified Ordinances, Section 1113.02 rests with the Cortland City Council as it relates to hearings to be held by City Council.

NOW, THEREFORE:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CORTLAND, OHIO:

Section 1. It is in the best interest of the City of Cortland to amend in part the original Ordinance O-35-96 to change Part Eleven, Planning and Zoning Code of the City of Cortland Codified Ordinances, Section 1113.02.

Section 2. The City shall hereafter define Marijuana Dispensary, Cultivator, Cultivator Level I, Cultivator Level II and Processor as defined by the Ohio Revised Code.

Section 3. Section 1113.02 is amended and will hereinafter read as follows (emphasis added):

1113.02 DEFINITIONS.

(1) “Accessory Use” means a use of land or of a building or portion thereof customarily incidental to the principal use of the land or building and located on the same lot with such principal use. For the purpose of this ordinance, accessory uses include, but are not limited to garages, utility sheds, swimming pools, game courts, solar panels, satellite dishes, and similar devices.

(2) “Adult Book Store” means an establishment having a substantial and significant portion of its stock in trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.

(3) “Adult Motion Picture Theater” means an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

(4) “Adult Mini Motion Picture Theater” means an enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

(5) “Adult Entertainment Cabaret” means an establishment which features topless female dancers, exotic dancers, strippers or similar entertainers exhibiting “specified anatomical areas”.

(6) “Apartment”. See “Dwelling, Multiple Family”.

(7) “Arterial Street” means a Federal or State highway designed primarily for the movement of large volumes of traffic from one area to another.

(8) “Assisted Living Homes”. As defined in the Ohio Revised Code.

(9) “Board of Appeal” means the City of Cortland Board of Appeal.

(10) “Buffer” wherever mentioned in this Zoning Ordinance means a strip of land reserved for the purpose of blocking the view from a residential use of the abutting commercial or industrial use by landscaping material (trees, shrubs, etc.) or a fence of height of at least six (6) feet. If a fence is utilized, it must be of a material or design sufficient to obscure a view of a commercial or industrial use, and the side facing the residential use must be finished as so to provide a good cosmetic appearance. Such a fence must also conform to all regulations in this Zoning Ordinance for “Fences “. The landscaping material or fence must be located along the inside strip and not on the property line.

The buffer strip shall be clear of any structure or driveways, and no parking or other uses related to the commercial or industrial use shall be permitted within the strip. The regulation for fences within the setback area is modified to allow for a six (6) foot minimum fence, but shall not be located any closer than thirty (30) feet from the right-of-way of the street along the front property line.

(11) "Building" means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any person, farm animal, process, equipment, or goods.

(12) "Building, Accessory" means a structure attached to or detached from a principal building on the same lot and customarily incidental in use to the principal building.

(13) "Building Height" means the vertical distance measured from the curb level to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks, and similar projections.

(14) "Building, Principal" means a building in which is conducted the principal use of the lot.

(15) "Building, Setback Line" means a line establishing the minimum allowable distance between the nearest portion of any building, excluding steps, gutters, and similar fixtures, and the property line when measured perpendicularly thereto.

(16) "Canopy" means a roof like, unenclosed (except when connected to a building) shelter, having various means of support and generally used for protection from weather for pedestrians.

(17) "Certificate of Mailing". As defined by the United States Post Office

(18) "Child Care Center" means any home, agency, or place where children not related to the operator are received for care.

(19) "Child Care Home" means one in which care is given for a fee in a family home for one and not more than six (6) children. Only those residing in the home may be involved in the day to day operation of the child care home.

(20) "City of Cortland Building, Planning and Zoning Commission". This Zoning Ordinance shall refer to this Commission by Planning and Zoning Commission or Commission.

(21) "Cluster Housing" means grouping of three (3) or more structures around courts, cul-de-sac, or short streets more closely than in conventional single-family classifications in order to preserve open space for common use.

(22) "Collector Street" means a public way designed primarily to connect residential, service streets with arterial streets or to provide a direct connection between two arterial streets and may be expected to carry a significant volume of traffic having neither origin nor destination on the street.

(23) "Cultivator" as defined in the Ohio Revised Code, means an entity that has been issued a certificate of operation to grow, harvest, package, and transport medical marijuana.

(24) "Director of Public Service and/or His Designated Representative" for the purposes of this Zoning Ordinance shall be the Zoning Administrator, the City official in addition to any other duties he may perform, enforces and administers the regulations herein set forth as the City of Cortland Zoning Ordinance.

(25) "Dispensary" means an entity licensed pursuant to the Ohio Revised Code and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.

(26) "District, Zoning" means any section of the City of Cortland in which zoning regulations are uniform.

(27) "Dwelling" means any building used exclusively for human habitation, including any permitted home occupation but excluding hotels or motels.

(28) "Dwelling unit" means one or more rooms with cooking and toilet facilities used as a place of residence for one family.

(29) "Dwelling, Multiple-Family" means a building used exclusively as a place of residence and containing three (3) or more dwelling units.

(30) "Dwelling, Single-Family Detached" means a detached building used exclusively as a place of residence for one family.

(31) "Dwelling, Two-Family - Duplex" means a building used as a place of residence for two (2) families occupying separate dwelling units.

(32) "Essential Services" means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, structures, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

(33) "Expressway" involves those roadways containing some at-grade intersections but with limited access.

(34) "Family" means one or more persons living together as a single housekeeping unit. For the purposes of this Zoning Ordinance, such persons may include gratuitous guests, foster children, and domestic servants employed on the same premises.

(35) "Freeway" involves those roadways with complete control of access through the use of grade separation and interchanges.

(36) "Garages" means a detached or attached accessory building used for only the storage of private passenger vehicles owned or rented.

(37) "Green Areas" means an area of the parcel or lot that shall be set aside for grass or vegetation to be maintained, exclusive of driveways, parking areas and structures. Whenever parking areas, as required by this Ordinance, create a large area, it is requested that these be broken up with small planter areas, including trees. These planter areas will be included in the mandated green areas.

(38) "Gross Leasable Area" means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

(39) "Halfway Home". As defined in the Ohio Revised Code.

(40) "Height" means the vertical distance measured from the average finished grade at the front building line to the highest point of the structure.

(41) "Home Occupation" means any use of principal and accessory buildings clearly incidental to their uses for dwelling purposes and conducted for compensation by a resident thereof within a residential district and meeting the requirements of Chapter [1125](#).

(42) "Hotel or Motel" means a building or group of buildings containing individual sleeping or living units designed for the temporary occupancy of tourists or transient guests and which has a garage attached or parking space conveniently located to each unit.

(43) "Joint Occupancy" means any structure in which the ground floor is occupied by a business or commercial activity and residential dwelling units occur on the upper floors.

(44) "Interstate Highway". See Freeway.

(45) "Junk" means old metals, glass, paper or other waste that may be used again in some form. Also includes rubbish, trash or garbage.

(46) "Junk Yard" means any land or area used in whole or in part for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk and including storage of vehicles and machinery and/or dismantling of such vehicles or machinery.

(47) "Kennel or Animal Shelter" means any place or establishment in which dogs and/or cats and/or aviary are kept, trained, bred, boarded or handled for a fee.

(48) "Level I cultivator" as defined in the Ohio Administrative Code, means a cultivator that is permitted to operate up to twenty-five thousand square footage of space designated as the marijuana cultivation area in the application, unless a request for expansion is approved.

(49) "Level II cultivator" as defined in the Ohio Administrative Code, means a cultivator that is permitted to operate up to three thousand square footage of space designated as the marijuana cultivation area in the application, unless a request for expansion is approved.

(50) "Lot" means a parcel of land designated by number or other symbol as a part of a legally approved and recorded subdivision, or as described by metes and bounds and recorded in the Trumbull County Auditor's Office.

(51) "Lot, Corner" means a lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines or of the street lines as extended is the corner.

(52) "Lot Depth" means the average horizontal distance between the front and rear property lines of a lot.

(53) "Lot, Double Frontage" means a lot which extends through a block having frontage on two streets.

(54) "Lot Line, Front" means that line which separates the lot from a street right-of-way.

(55) "Lot Line, Side" means any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

(56) "Lot Line, Rear" ordinarily means that lot line which is opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line 10 feet in length entirely within the lot parallel to and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard.

(57) "Lot Line, Street or Alley" means a lot line separating the lot from a street or alley.

(58) "Lot of Record" means a lot which exists as shown or described on a plat or deed in the records of the Trumbull County Auditor's Office.

(59) "Lot Width" means the distance between the side lot lines at the set as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

(60) "Lot Area" means the computed area contained within the lot lines.

(61) "Lot, Zoning" means a parcel of land which is indicated by the owners, at the time of application for a building or zoning permit, as being that land which he proposes to develop under one ownership.

(62) “Manufactured Home (Mobile Home)” means a mobile home or manufactured home means a structure, designed and built to be transported in one or more sections on its own chassis, which is built on a permanent chassis whether or not the tongue or wheels have been removed, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein: except as such terms shall not include travel trailers, travel motorized homes, pick-up coaches, or camping trailers.

(63) “Mini-Warehouses”. See Self-Service Storage Facility.

(64) “Mobile Home Park” means any place, area, or tract of land maintained, offered or set for parking of two or more mobile homes used or intended to be used for living or sleeping purposes regardless of whether or not a charge is made for such accommodations.

(65) “Mobile Home Space” means that portion of land in a mobile home park allotted to or designed for the accommodation of one mobile home.

(66) “Modular Home” consists of two non-self-supporting units factory fabricated and transported to the home site where they are put on a permanent foundation and joined to make a permanent single-family house.

(67) “Nonconforming Lot” means a lot of record at the time of passage of this ordinance which does not meet the requirements for area and/or width generally applicable in the district in which such lot is located.

(68) “Nonconforming Use or Structure” means a land use or structure which existed lawfully on the date this zoning ordinance became effective, and which does not conform with the permitted uses for the zoning district in which it is situated. Nonconforming uses are incompatible with permitted uses in the districts involved. Such nonconformities are permitted to continue until they are removed, but their survival, enlargement, or extension is not encouraged.

(69) “Nursing Home”. As defined in the Ohio Revised Code.

(70) “Planned Development” for purposes of this Zoning Ordinance, a planned development shall be a group of detached, semidetached, attached, groups of attached, clustered, or multi-storied residential structures or any combination thereof on a parcel of land under single, corporation, firm, partnership, or association ownership planned and developed as an integrated unit in a single develop.

(71) “Planned Shopping Center” means a group of commercial establishments planned and developed as a unit related in location, size, and type of shops to the trade area that the unit serves; it provides on-site parking in definite relationship to the types and sizes of stores.

(72) “Private Recreation Area” means a recreation area maintained for members including but not limited to golf courses, swimming pools, tennis clubs, and neighborhood clubhouses, any and each of which must comply with all requirements of the Zoning Ordinance.

(73) “Private Street” means a right-of-way of undetermined width with a roadway of undetermined width which has not been dedicated, recorded, or publicly accepted by the county.

(74) “Processor”, as defined in the Ohio Revised Code, means an entity that has been issued a certificate of operation to manufacture medical marijuana products.

(75) “Professional Office” means the office of a member of a recognized profession. When conducted in a residential district, a professional office shall be incidental to the residential use and shall be conducted by a member of the family occupying the residential building. Such uses shall include the offices of doctors or physicians, dentists, optometrists, ministers, architects, landscape architects, professional engineers, lawyers and such other similar professional occupations which may be so designated by the Commission. The issuance of a State or local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

(76) “Quorum” means the number of members of any deliberative or corporate body as is necessary for the legal transaction of business, commonly a majority.

(77) “Residential Service Street” means a public or private way used primarily for providing direct access to abutting property.

(78) “Rest Home” means a residence used for the rooming or boarding of any aged or convalescent persons whether ambulatory or non-ambulatory, for which a license is required by a county, state, or federal agency.

(79) “Restaurant” means any establishment, including drive-ins, however designated, and bar and taverns, at which food or drink is sold for consumption on the premises.

(80) “Rooming or Boarding House” means a dwelling other than a hotel where lodging and/or meals for three (3) or more persons are provided for compensation.

(81) “Rubbish” means useless waste or rejected matter; something that is non-essential.

(82) “Salvage Yard”. See junk yard.

(83) “Sectional Home” means a sectional home consists of three or more non self- supporting units factory fabricated and transported to the home site where they are put on a permanent foundation and joined to make a permanent single-family.

(84) “Self-Service Storage Facility” means a structure containing separate storage spaces of varying size leased or rented as individual leases.

(85) “Service Station/Gas Station” means an establishment used for the servicing of automobiles including the sale of gasoline, oil, grease, minor accessories, and washing and polishing, but excluding the sale of automobiles, body repairing, major motor repairing, and painting.

(86) “Setback Line” means that line which is parallel to and given distance the front lot line of a lot or parcel of land at such distance as is required in this Zoning Ordinance.

(87) “Specified Anatomical Area” means:

A. Less than completely and opaquely covered:

1. human genitals, pubic region,
2. buttock, and
3. female breast below a point immediately above the top of the aureole; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(88) “Specified Sexual Activities” means:

A. Human genitals in a state of sexual stimulation or arousal.

B. Acts of human masturbation, sexual intercourse or sodomy.

C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(89) “Street” means a dedicated public right-of-way which affords the principal means of access to abutting property and which has been accepted for maintenance by the City of Cortland, Trumbull County, or the State Highway Department. For the purposes of these regulations, the term street or streets shall also mean avenues, boulevards, roads, lanes, and other public ways.

(90) “Structure Alteration” means any change in the supporting members of a building.

(91) “Structure” means anything constructed or erected which requires permanent location above grade. For purposes of this Zoning Ordinance, “structure” does not include landscape features such as ornamental pools, planting boxes, sculpture, bird baths, open terraces, walkways, walls, or fences; shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, swimming pools, air-conditioning compressors, pump houses or wells, mailboxes, privies, outdoor fireplaces, gatehouses, burial vaults, or bus shelters.

(92) “Sub-Collector Street” means a public way designed primarily to connect residential, service streets with arterial streets or to provide a direct connection between two arterial streets and may be expected to carry a significant volume of traffic having neither origin nor destination on the street.

(93) “Subdivision” means the City of Cortland Subdivision Regulations Codified Ordinance.

(94) “Travel Trailer” means any vehicle mounted on wheels but not self-propelled and not more than 26 feet in length, designed and intended to serve primarily as short-term shelter.

(95) “Usable Wall Area” means the exterior wall or surface area of a building or that excludes doors.

(96) “Usable Permitted on Review” means uses allowable where facts and conditions detailed in this ordinance, as those upon which a use may be permitted, are found to exist.

(97) “Utility, Public” means any agency which, under public franchise or ownership, provides the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other service.

(98) “Variance” means a relaxation of the dimensional terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant.

(99) “Veterinary Clinic” means a facility for diagnosis, treatment, and care of large and small animals. Animals may be boarded in this facility. All activities related to this facility shall be conducted indoors.

(100) “Veterinary Hospital” means a facility for diagnosis, treatment and care of large and small animals. The facility shall be a freestanding building wholly occupied by the activities related to the veterinary hospital. Animals may be boarded in this facility. Activities are not restricted to the interior of the building.

(101) “Veterinary Office” means a facility for diagnosis, treatment, and care of small domestic animals. Sick or injured animals may be boarded no longer than three (3) days. No commercial boarding is allowed in the veterinary office facility. All activities related to this facility shall be enclosed indoors.

(102) “Yard, Required” means an open space, which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as here in permitted.

(103) “Yard, Front” means an open space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this ordinance.

(104) "Yard, Rear" means an open space extending the full width of the lot between the principal building and the rear lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this Zoning Ordinance.

(105) "Yard, Side" means an open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as may be specified elsewhere in this Zoning Ordinance.

(106) "Zoning Permit" means a certification by the Zoning Administrator that a proposal to use or occupy a tract of land or a building; or to erect, install, or alter a structure, building or sign, fully meets the requirements of this Zoning Ordinance.

Section 4. This Ordinance shall take effect and be in full force as early as allowed by law.

PASSED IN COUNCIL THIS 2nd DAY OF APRIL, 2018.

ATTEST: _____
CLERK OF COUNCIL

PRESIDENT OF COUNCIL

FILED W/ MAYOR _____
DATE

MAYOR

DATE APPROVED _____

ROLL CALL
FIRST READING
Edwards, aye
Fleischer, aye
Keller, aye
Moore, aye
Petrosky, aye
Piros, aye
Rowley, aye

SECOND READING
Edwards, aye
Fleischer, aye
Keller, aye
Moore, aye
Petrosky, aye
Piros, aye
Rowley, aye

THIRD READING
Edwards, aye
Fleischer, aye
Keller, aye
Moore, aye
Petrosky, aye
Piros, aye
Rowley, aye

OFFICIAL SEAL