

ORDINANCE NO. 18 - 1161

TO PROHIBIT MEDICAL MARIJUANA CULTIVATION, PROCESSING, AND RETAIL DISTRIBUTION WITHIN THE VILLAGE OF RUSSELLS POINT, OHIO

WHEREAS, on May 25, 2016, the Ohio General Assembly passed Substitute House Bill 523 (“H.B. 523”), which allows individuals with a qualifying medical condition, on the recommendation of a physician, to apply to the State, and upon approval of their application receive an identification card allowing them to obtain, possess, and use medical marijuana for the treatment of said condition; and

WHEREAS, H.B. 523 was signed into law by Ohio Governor John Kasich and thereafter became effective on September 8, 2016; and

WHEREAS, pursuant to home rule authority found in Article XVIII of the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the inherent power to enact planning, zoning and business regulation laws that further the health, safety, welfare, comfort and peace of the citizens of the municipality, including restricting, prohibiting and/or regulating certain business uses; and

WHEREAS, ORC § 3796.29, enacted by H.B. 523, affirms that municipalities may adopt restrictions, including prohibiting or limiting the number of cultivators, processors, or retail dispensaries of medical marijuana within their corporation limits; and

WHEREAS, marijuana (cannabis) remains classified as a Schedule I controlled substance under the Federal Controlled Substances Act, rendering the manufacture, distribution, dispensation, and the possession of marijuana with intention to manufacture, distribute, or dispense, a crime under federal law; and

WHEREAS, a consequence of the continued prohibition of marijuana by the Federal government is that financial services providers such as banks and credit card companies are unable to do business with marijuana enterprises because it is illegal under Federal law to transmit funds known to have been derived from marijuana; and

WHEREAS, the unbanked status of marijuana businesses results in the businesses and their customers carrying significant amounts of cash; and

WHEREAS, the presence of large amounts of cash invites opportunity for robbery, theft, money laundering, tax evasion, and other crimes constituting threats to the public health, safety, and welfare; and

WHEREAS, due to the above potential threats to public health, safety, and welfare, having reviewed the State law and Federal law’s continued classification of marijuana (cannabis) as a Schedule I drug, the Village of Russells Point determines that cultivation, processing, and retail dispensing of marijuana for medical purposes, or otherwise, shall not be a permitted use within this Village;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Russells Point, Logan County, Ohio, that:

SECTION I: That Chapter 741 of the Village of Russells Point Codified Ordinances now shall be enacted and hereby written as follows:

CHAPTER 741 – MEDICAL MARIJUANA

741.01 DEFINITIONS.

(a) “Academic medical center” has the same meaning as in section 4731.297 of the Ohio Revised Code.

(b) “Marijuana” has the same meaning as marihuana as defined in section 3719.01 of the Ohio Revised Code.

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

(d) “State university” has the same meaning as in section 3345.011 of the Ohio Revised Code.

741.02 CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED.

(a) The cultivation, processing, or retail dispensing of medical marijuana within the Village of Russells Point is hereby prohibited.

(b) This section does not prohibit research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity, if otherwise permitted by State law or rule, or local ordinance.

741.99 PENALTY

Whoever violates Section 741.02(a) is guilty of a misdemeanor of the fourth degree. Each day of violation shall constitute a separate offense.

SECTION II. That Chapter 1173, District Regulations, shall be amended by enacting Section 1173.05, as follows:

1173.05 CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED IN ALL DISTRICTS.

(a) The cultivation, processing, or retail dispensing of medical marijuana shall be a prohibited use in all zoning districts within the Village of Russells Point.

(b) Use of property in violation of this section shall constitute a nuisance.

(c) In addition to other penalties provided by law, the Village Solicitor shall be authorized to institute civil proceedings in a court of competent jurisdiction to enjoin violations of this section; for monetary damages arising from violations of this section; and to take all actions necessary to secure enforcement of any injunction and collect upon any damage award, judgment, or fine in contempt levied in relation to a violation of this section.

SECTION III: 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 any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of the Ohio Revised Code.

SECTION IV: That this ordinance shall, therefore, be in force and take effect at the earliest period allowed by law.

John Huffman, President Pro Tem

Robin Reames, Mayor

Attested: _____
Jeff Weidner, Fiscal Officer

Approved as to Form:
Robert N. Eshenbaugh Jr.
Village Solicitor