

ORDINANCE NO. 18-1163

AN ORDINANCE IMPOSING A MORATORIUM ON THE GRANTING OF BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY FOR ANY BUILDING, STRUCTURE, USE OR CHANGE OF USE FOR THE CULTIVATION, PROCESSING, OR RETAIL SALE OF MEDICAL MARIJUANA FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY (180) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, IN ORDER TO ALLOW COUNCIL AND THE PLANNING COMMISSION TO REVIEW APPLICABLE OHIO STATUTES, CRIMINAL CODES AND THE PLANNING AND ZONING CODE RELATIVE TO SUCH USE.

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, Revised Code Section 3796.29, enacted by 131 Sub. H.B. 523, allows municipalities to prohibit, or limit the number of, cultivators, processors, or retail dispensaries of medical marijuana within their corporate limits; and

WHEREAS, Council and the Planning Commission require additional time to undertake a review of all applicable codes statewide and within the Village in order to formulate a local response to 131 Sub. H.B. 523;

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

Section No. 1: That Council hereby imposes a moratorium on the granting of zoning permits, building permits, or certificates of occupancy for any building, structure, use or change of use for the cultivation, processing, or retail sale of medical marijuana for a period not to exceed one hundred eighty (180) days from the effective date of this Ordinance, in order to allow Council and the Planning Commission to review applicable Ohio statutes, criminal codes and the Planning and Zoning Code relative to such use.

Section No. 2: That during the period of the moratorium, no zoning permit, building permit, certificate of occupancy or any other permit shall be granted to a business for opening, using any land or devoting any floor area of the business for the purposes of the cultivation, processing, or retail sale of medical marijuana. During the period of the moratorium, no existing business in the Village may establish cultivation, processing, or retail sale of medical marijuana.

Section No. 3: That the moratorium shall be in effect for a period of one hundred eighty (180) from the effective date of this Ordinance or until changes are enacted to amend the Codified Ordinances of the Village of Russells Point to address these issues or until Council approves legislation explicitly revoking this moratorium, whichever occurs first.

Section No. 4: That for the purpose of this Ordinance, " medical marijuana" shall have the same meaning as that term is defined in Section 3796.01(A)(2) of the Ohio Revised Code, effective September 8, 2016.

Section No. 5: 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 which 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 No. 6: That this Ordinance is hereby declared to be an emergency measure, the emergency being the need to institute the moratorium at the earliest possible date because Chapter 3796 of the Revised Code has become effective on September 8, 2016, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall go into immediate force and effect provided that it receives a two thirds vote of all members of Village Council.

John Huffman
President Pro Tem of Council

Robin Reames
Mayor

Attested: _____
Jeff Weidner
Fiscal Officer