

ORDINANCE NO. 24 -16

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE GRANTING OF ZONING PERMITS, APPROVALS, AND CERTIFICATES OF OCCUPANCY FOR ANY BUILDING, STRUCTURE, USE OR CHANGE OF USE THAT WOULD ENABLE THE CULTIVATION, PROCESSING, DISTRIBUTION OR RETAIL SALE OF MEDICAL MARIJUANA IN THE CITY FOR A PERIOD NOT TO EXCEED SIX MONTHS IN ORDER TO ALLOW THE CITY COUNCIL AND PLANNING COMMISSION TO REVIEW APPLICABLE STATE AND LOCAL LAWS, TO PLAN FOR REGULATIONS RELATING TO SUCH USES, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact planning and zoning laws that are for the health, safety, and welfare, comfort and peace of the citizens of the municipality, including restricting areas used for businesses and trades; and,

WHEREAS, in June of 2016, the 131st General Assembly of the Ohio Legislature passed Substitute House Bill 523, which allows individuals with a qualifying medical condition 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, after the 131st General Assembly of Ohio approved Sub House Bill 523 (“H.B. 523”), Governor John Kasich signed it into law on June 8, 2016; and

WHEREAS, H.B. 523 became effective on September 8, 2016; and

WHEREAS, H.B. 523, among other things, permits licensed physicians to recommend the use of medical marijuana to patients within the State of Ohio, and creates State regulatory oversight of the cultivation, processing, sale, and use of medical marijuana; and

WHEREAS, Sub House Bill 523 further provides that entities may seek application for license with the Department of Commerce to conduct laboratory testing, cultivation, processing or retail and/or retail dispensing of medical marijuana. Municipal corporations may adopt an ordinance to prohibit or limit the number of cultivators, processors or retail dispensaries within the municipal corporation; and

WHEREAS, H.B. 523 states that this Council has the power to adopt ordinances prohibiting, limiting, and otherwise regulating medical marijuana cultivators, processors, and dispensaries within the limits of the City; and

WHEREAS, pursuant to the Ohio Revised Code, as well as the Ohio Constitution, this Council also has the inherent power to enact planning, zoning and business regulation laws that

further the health, safety, welfare, comfort and peace of its citizens, including restricting, prohibiting and/or regulating certain business uses; and

WHEREAS, the City needs additional time to review applicable sections of its Codified Ordinances and the Ohio Revised Code and to plan for and to formulate an appropriate response to H.B. 523;

NOW, THEREFORE, Be It Resolved by the Council of the City of Port Clinton, State of Ohio, that:

Section 1: For the purpose of this Ordinance, “medical marijuana” shall have the same meaning as that term is defined in Ohio Revised Code Section 3796.01(A)(2) as adopted by H.B. 523.

Section 2: This Council establishes a moratorium on the acceptance of any applications for, or the granting of zoning approvals, certificates of business occupancy or certificates of occupancy that would enable the cultivation, processing, distribution or retail sale of medical marijuana in the City of Port Clinton for a period of six months from the date of adoption of this Ordinance by the Council.

Section 3: 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. No existing business in the City may expand in any way that would establish the cultivation, processing, distribution or sale of medical marijuana for the duration of the moratorium period established by this Ordinance.

Section 4: 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 meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7: This Ordinance is declared to be an emergency measure immediately necessary for the immediate preservation of the public peace, health, safety and welfare of the citizens of the City of Port Clinton, and for the further reason that this measure is necessary in order to immediately establish the moratorium for the reasons set forth in the recitals of this Ordinance and, therefore, this Ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED: _____

President of Council

APPROVED: _____

ATTEST: _____
Clerk of Council

Mayor