

ORDINANCE NO. 17-22

AN ORDINANCE TO ENACT NEW CHAPTER 1165: MEDICAL MARIJUANA OF NEW LEXINGTON ZONING CODE ~~AND DECLARING AN EMERGENCY~~

WHEREAS, the Ohio General Assembly recently adopted H.B. 523, which legalized certain forms of non-smoked medical marijuana under state law while preserving the power of municipalities to regulate, zone, and/or prohibit land uses related thereto; and

WHEREAS, Council takes no position as to the purported benefits of medical marijuana, but notes that H.B. 523 provides incompletely for the regulation of businesses related thereto, delegates responsibility for development of vague future regulations to the Ohio Department of Commerce and other state agencies, and fails to resolve the obvious conflicts, both legal and practical, between products and land uses that are legalized under state law but illegal under federal law; and

WHEREAS, in light of these concerns, and in the interest of preserving the village's predominantly residential character and ambiance, Council referred this matter to the Planning Commission to consider a legislative text amendment to the Zoning Code that would prohibit medical marijuana-related businesses and/or home occupations within all zoning districts of the Village of New Lexington; and

WHEREAS, Council finds that the text amendment will benefit the public health, safety and welfare of the citizens of New Lexington,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW LEXINGTON, OHIO, THAT:

Section 1.

For the reasons set forth above, which are specifically incorporated herein, new Chapter 1165, *Medical Marijuana*, of the New Lexington Zoning Code is hereby adopted and made a part of the Codified Ordinances of the Village of New Lexington, Ohio, as follows:

Chapter 1165 Medical Marijuana

1165.01 Legislative Purpose

Although medical marijuana is in some respects legal under applicable state law, it remains illegal under federal law. The purpose of this Chapter is to prohibit the use of real property in the Village for a medical marijuana-related business or home occupation. This chapter is expressly adopted as an exercise of the Village's power of local self-government and Home Rule authority pursuant to the Village Charter and Section 3, Article XVIII of the

Constitution of the State of Ohio, and pursuant to the provisions of Ohio Revised Code Section 3796.29.

1165.02 Definitions

The following definitions shall apply for all purposes under the Zoning Code:

- a. "Marijuana" means marihuana as defined in Ohio Revised Code Section 3719.01.
- b. "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed, or used, for a medical purpose, regardless of whether such marijuana is, or is not, in a form or intended for incorporation into a form permitted under Ohio Revised Code Section 3796.06.
- c. "Medical marijuana-related business or home occupation" means a business or home occupation use, involving in whole or in part, the cultivation, processing, distribution, and/or wholesale or retail sale of medical marijuana on the premises. This definition shall specifically include, but is not limited to, dispensaries of medical marijuana; facilities for the cultivation, packing, transportation, processing, storage, and/or sale of medical marijuana; and bakeries or kitchens producing edible forms of medical marijuana or products containing the same.

1165.03 Prohibition

No medical marijuana-related business or home occupation may be established, operated, or maintained within the Village, nor shall any provision of the Zoning Code be construed to permit the use of any property for that purpose. This prohibition shall apply to all zoning districts within the Village.

1165.04 Severability

In the event that any portion of this Chapter shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, that portion shall be considered severable and the remainder of this Chapter shall remain in full force and effect.

Section 2: This Ordinance is declared to be an emergency measure necessary for immediate preservation of the peace, health, safety and general welfare of the people of this municipality and shall take effect at the earliest time provided by the law.

PASSED: 12-4-17



PRESIDENT OF COUNCIL

APPROVED:



MAYOR



ATTEST: CLERK of COUNCIL