



City of Powell, Ohio

ORDINANCE 2017-25

Adopted June 20, 2017

AN ORDINANCE TO PROHIBIT CULTIVATION, PROCESSING, AND RETAIL DISTRIBUTION OF MEDICAL MARIJUANA WITHIN THE CITY OF POWELL AND DECLARING AN EMERGENCY.

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, 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, pursuant to the City Charter, the Constitution of the State of Ohio, and the Ohio Revised Code, the City has 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, 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 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 threats to public health, safety, and welfare, having reviewed the State's rules and Federal law's continued classification of marijuana (cannabis) as a Schedule I drug, the City of Powell determines that cultivation, processing, and retail dispensing of marijuana for medical purposes, or otherwise, shall not be a permitted use within this City;

NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

Section 1: That Title XI, Business Regulations, shall be amended by adding Chapter 751, Medical Marijuana, to read as follows:

CHAPTER 751 – MEDICAL MARIJUANA

751.01

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.

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

(a) The cultivation, processing, or retail dispensing of medical marijuana within the City of Powell 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.

751.99 PENALTY

Whoever violates Section 751.02(a) is guilty of a misdemeanor of the fourth degree. Each day of violation shall constitute a separate offense.

Section 2: The provisions of this Ordinance are severable, and if any one or more should be found unenforceable for any reason, the remaining provisions shall remain in full force and effect.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

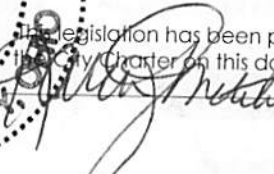
Section 4: This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants, such emergency arising from the immediate need to institute a prohibition during the time period that the State of Ohio is accepting applications for siting of medical marijuana facilities; **WHEREFORE**, this Ordinance shall take effect and be in force from and after its passage.

VOTE ON ORDINANCE 2017-25: Y 7 N 0


Brian Lorenz
Mayor


Date: 6/20/17
Kathleen J. Mitchell
City Clerk
Date: 6/20/2017

EFFECTIVE DATE: June 20, 2017

The legislation has been posted in accordance with the City Charter on this date: 6/28/2017.

City Clerk