

## **ORDINANCE 059-17**

### **AN ORDINANCE PROHIBITING MEDICAL MARIJUANA CULTIVATION, PROCESSING, TESTING, PACKING, STORAGE, AND RETAIL DISTRIBUTION WITHIN THE CITY OF NAPOLEON, 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 9, 2016; and

**WHEREAS**, pursuant to home rule authority found in Article XVIII of the Constitution of the State of Ohio, the City Charter, 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**, H.B. 523 provides that the Ohio Department of Commerce, the Board of Pharmacy, and the State Medical Board shall adopt rules establishing standards and procedures for the medical marijuana control program; and

**WHEREAS**, these state boards have published their proposed rules governing operation of marijuana dispensaries, cultivators, and processors, the issuance of certificates to physicians wishing to recommend medical marijuana to patients, and the registration of patients and caregivers wishing to purchase medical marijuana pursuant to these recommendations; and

**WHEREAS**, these proposed rules are in the process of completing the state's agency rule review; and

**WHEREAS**, the City has studied these proposed rules; 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 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 Napoleon determines that cultivation, processing, testing, 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 Council of the City of Napoleon, Henry County, State of Ohio, 7 of the elected members concurring, that:

**SECTION 1.** That Part VII , Business Regulation Code, shall be amended by enacting Chapter 747, Medical Marijuana, to read as follows:

## **CHAPTER 747 – MEDICAL MARIJUANA**

### **747.01 DEFINITIONS**

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

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

**(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.**

**747.02 CULTIVATION, PROCESSING, TESTING, PACKING, STORAGE, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED**

**(a) The cultivation, processing, testing, packing, storage, or retail dispensing of medical marijuana within the City of Napoleon is hereby prohibited.**

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

**747.99 PENALTY**

**Whoever violates Section 747.02 is guilty of a misdemeanor of the first degree. Each day of violation shall constitute a separate offense.**

**SECTION 2.** That Part XI, Planning and Zoning Code, shall be amended by enacting Section 1127.22, Cultivation, Processing, Testing, Packing, Storage, or Retail Dispensing of Medical Marijuana Prohibited in All Districts, to read as follows:

**1127.22 CULTIVATION, PROCESSING, TESTING, PACKING, STORAGE, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED IN ALL DISTRICTS.**

**(a) The cultivation, processing, testing, packing, storage, or retail dispensing of medical marijuana shall be a prohibited use in all zoning districts within the City of Napoleon.**

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

**(c) In addition to other penalties provided by law, the Director of Law 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 3.** Council hereby finds that all deliberations and votes taken in relation to this Ordinance were done in a public meeting in accordance with Section 121.22 of the Ohio Revised Code.

**SECTION 4.** 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.

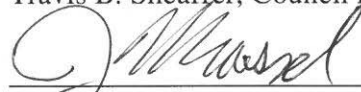
**SECTION 5.** This ordinance shall take effect at the earliest opportunity allowed by law.

Passed: November 6, 2017



Travis B. Sheaffer, Council President

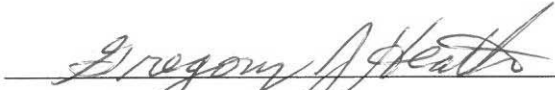
Approved: November 6, 2017



Jason P. Maassel, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:



Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 059-17 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 13th day of November, 2017; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

  
Gregory J. Heath, Clerk/Finance Director