

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2017 – 139

By: Mayor Perciak and All Members of Council

AN ORDINANCE ENACTING A NEW CHAPTER 840 “MEDICAL MARIJUANA” OF TITLE TWO OF PART EIGHT-BUSINESS REGULATION AND TAXATION CODE OF THE CODIFIED ORDINANCES OF THE CITY OF STRONGSVILLE; AMENDING CHAPTER 1242 OF TITLE SIX OF PART TWELVE-PLANNING AND ZONING CODE, TO ESTABLISH A NEW SECTION 1242.14 CONCERNING THE REGULATION OF MEDICAL MARIJUANA IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

WHEREAS, on June 8, 2016, the Ohio General Assembly adopted and the Governor signed into law, 131 Sub. H.B. 523, which became effective September 8, 2016; and

WHEREAS, 131 Sub. H.B. 523, among other things, permits patients in Ohio to use medical marijuana on the recommendation of physicians; creates state regulatory oversight of the cultivation, processing, retail sale, use and physician recommendation of medical marijuana; authorizes the legislative authority of a city to adopt regulations dealing with or limiting the number of retail medical marijuana dispensaries; and prohibits a cultivator, processor, retail dispensary or laboratory from being located or relocating within 500 feet of a school, church, public library, public playground or public park; 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 (“ORC”), municipalities in the State of Ohio 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 Section 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 agencies have published certain 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, the City of Strongsville 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 Strongsville 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 COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That this Council hereby enacts a new Chapter 840 Medical Marijuana, of Title Two of Part Eight-Business Regulation and Taxation Code of the Codified Ordinances of the City of Strongsville, to read in its entirety as follows:

**CHAPTER 840
Medical Marijuana**

840.01	Definitions.
840.02	Prohibitions.
840.03	Research permitted.
840.99	Penalty.

840.01 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 marijuana 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.

840.02 PROHIBITIONS.

(a) No person or entity owning, renting, leasing, or having any interest whatsoever in real property located within the City of Strongsville shall develop, construct, reconstruct, remodel, adapt or use, or permit the use of, said real property for any of the following:

- (1) as a medical marijuana dispensary;
- (2) for the processing of medical marijuana;
- (3) for the indoor or outdoor cultivation of medical marijuana.

(b) No person or entity shall enter upon or occupy any public property, street, or right-of-way for any of the uses enumerated in Section 840.02(a).

840.03 RESEARCH PERMITTED.

Nothing in this Chapter shall be deemed to prohibit or limit 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.

840.99 PENALTY.

(a) Whoever knowingly violates Section 840.02(a) is guilty of a misdemeanor of the first degree. Each day of violation shall be deemed to be a separate offense.

(b) Whoever knowingly violates Section 840.02(b) is guilty of a misdemeanor of the fourth degree. Each day of violation shall be deemed to be a separate offense.

Section 2. That new Section 1242.14 of Chapter 1242 of Title Six of Part Twelve-Planning and Zoning Code of the Codified Ordinances of the City of Strongsville concerning Medical Marijuana Cultivation, Processing, or Retail Dispensing, be and is hereby enacted to read in its entirety as follows:

**CHAPTER 1242
ADMINISTRATION, ENFORCEMENT AND PENALTY**

* * *

1242.14 CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED IN ALL DISTRICTS.

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

(b) Nothing in this Section shall be deemed to prohibit or limit 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.

(c) Use of property in violation of Section 1242.14(a) has been determined to be and shall constitute a nuisance *per se*.

(d) In addition to other penalties provided by law, including but not limited to those set out in this Chapter, the Law Department 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. 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 of any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that it is immediately necessary to address the issues associated with passage of 131 Sub. H.B. 523 regarding the regulation of medical marijuana. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

First reading: September 5, 2017 Referred to Planning Commission
 Second reading: September 13, 2017 September 6, 2017
 Third reading: November 6, 2017 Approved: September 7, 2017 *Favorable recommendation by PC*
 Public Hearing: November 6, 2017

Kenneth M. Dooner
 President of Council

Approved: Thomas B. Berniz
 Mayor

Date Passed: November 6, 2017

Date Approved: November 7, 2017

	<u>Yea</u>	<u>Nay</u>
Carbone	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Daymut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DeMio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dooner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schonhut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Short	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Southworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attest: Aimee Pientka
 Clerk of Council

ORD. No. 2017-139 Amended: _____
 1st Rdg. 09-05-17 Ref: PC/PZE
 2nd Rdg. 09-13-17 Ref: PZE
 3rd Rdg. 11-6-17 Ref: _____

Pub Hrg. 11-6-17 Ref: _____
 Adopted: 11-6-17 Defeated: _____

CITY OF STRONGSVILLE
OFFICE OF THE COUNCIL

MEMORANDUM

TO: Planning Commission

FROM: Tiffany Mekeel, Assistant Clerk of Council

DATE: September 6, 2017

SUBJECT: Referral from Council: Ordinance Nos. 2017-139 & 2017-140

At its regular meeting of September 5, 2017, City Council referred the following Ordinances to the Planning Commission for its report and recommendation thereon:

- **Ordinance No. 2017-139** by Mayor Perciak and All Members of Council. AN ORDINANCE ENACTING A NEW CHAPTER 840 "MEDICAL MARIJUANA" OF TITLE TWO OF PART EIGHT-BUSINESS REGULATION AND TAXATION CODE OF THE CODIFIED ORDINANCES OF THE CITY OF STRONGSVILLE; AMENDING CHAPTER 1242 OF TITLE SIX OF PART TWELVE-PLANNING AND ZONING CODE, TO ESTABLISH A NEW SECTION 1242.14 CONCERNING THE REGULATION OF MEDICAL MARIJUANA IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

- **Ordinance No. 2017-140** by Mayor Perciak and Mr. Daymut. AN ORDINANCE AMENDING SECTION 1258.03 OF TITLE SIX OF PART TWELVE-PLANNING AND ZONING CODE OF THE CODIFIED ORDINANCES OF THE CITY OF STRONGSVILLE IN ORDER TO ESTABLISH REGULATIONS FOR THE STORAGE, DISPLAY AND SALE OF VEHICLES IN A GENERAL BUSINESS DISTRICT, AND DECLARING AN EMERGENCY.

Copies of the ordinances are attached for Planning Commission review.

TAM
Attachment

MEMORANDUM

TO: Aimee Pientka, Council Clerk
Neal Jamison, Law Director

FROM: Carol Oprea, Administrative Assistant, Boards & Commissions

SUBJECT: Referrals to Council

DATE: September 8, 2017

Please be advised that at its meeting of September 7, 2017, the Strongsville Planning Commission gave Favorable Recommendation to the following;

ORDINANCE NO. 2017- 139

An Ordinance Enacting a New Chapter 840 "MEDICAL MARIJUANA" of Title Two of Part Eight-Business Regulations and Taxation Code of the Codified Ordinances of the City of Strongsville; Amending Chapter 1242 of Title Six of Part Twelve-Planning and Zoning Code, to establish a New Section 1242.14 concerning the Regulations of Medical Marijuana in the City of Strongsville and Declaring an Emergency.

ORDINANCE NO 2017 - 140

An Ordinance Amending Section 1258.03 of Title Six of part Twelve-Planning and Zoning Coe of the Codified Ordinances of the City of Strongsville in order to Establish Regulations for the Storage, display and Sale of Vehicles in a General Business District, and Declaring an Emergency.

Also at that meeting the Strongsville Planning Commission gave Unfavorable Recommendation to the following;

ORDINANCE NO. 2017-122:

An Ordinance Amending the Zoning Map of the City of Strongsville Adopted by Section 1250.03 of Title Six, Part Twelve of the Codified Ordinances of Strongsville to change the Zoning Classification of certain property located 14092 Pearl Road, in the City of Strongsville from GB (General Business) Classification to MS (Motorist Service) Classification (PPN 393-18-014), and Declaring an Emergency.