

ORDINANCE NO. 16-65  
INTRODUCED BY: Mr. Vincent

First Reading 9-19-16  
Revised 10-7-16  
Second Reading 10-10-16

**AN ORDINANCE**  
**AMENDING CHAPTER 513 OF THE CODIFIED ORDINANCES BY**  
**ENACTING SECTIONS 513.15 AND 513.16 PROHIBITING THE ESTABLISHMENT**  
**AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES, THE INDOOR AND**  
**OUTDOOR CULTIVATION OF MEDICAL MARIJUANA,**  
**AND THE DELIVERY OF MARIJUANA, AND**  
**DECLARING AN EMERGENCY**

**WHEREAS**, on June 8, 2016 Ohio Governor John Kasich signed House Bill 523 into law after it passed the Ohio General Assembly; and

**WHEREAS**, House Bill 523 will become effective on September 8, 2016; and

**WHEREAS**, House Bill 523 provides for the regulation and legalization of medical marijuana within the State of Ohio; and

**WHEREAS**, House Bill 523 allows for the Department of Commerce to award licenses to medical marijuana cultivators, processors, and testing laboratories; and

**WHEREAS**, House Bill 523 allows for the State Board of Pharmacy to award licenses to medical marijuana dispensaries; and

**WHEREAS**, the act included the adoption of Ohio Revised Code Section 3796.29 which authorized the legislation of a municipal corporation to adopt by Ordinance restrictions including the prohibition of cultivators, processors or retail dispensaries within said municipal corporation; and

**WHEREAS**, the Bay Village City Council takes legislative notice that the use, possession, cultivation, distribution, and sale of marijuana, whether for medical or recreational use, remains illegal under the Controlled Substances Act, codified at 21 U.S.C. Section 841, and that federal courts have recognized that the federal government may enforce the Controlled Substances Act notwithstanding contrary laws of any State; and

**WHEREAS**, in light of the continuing conflict between state and federal law, the City of Bay Village must resolve for itself whether, as a land use matter, medical marijuana cultivators, dispensaries, and processors, as defined by House Bill 523, should be permitted, regulated, or prohibited; and

**WHEREAS**, the Bay Village City Council finds and declares that it is necessary to retain local control over the regulation of commercial medical marijuana activities in order to protect the public health, safety, and welfare while it further considers whether future regulations may

allow for the safe and responsible operation of medical marijuana cultivators, processors, and dispensaries within the City of Bay Village.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Bay Village, Ohio:

**SECTION 1.** That Chapter 513 of the Codified Ordinances of the City of Bay Village is hereby amended by enacting new Sections 513.15 and 513.16 which shall read as follows:

### **513.15 PROHIBITED ACTIVITIES RELATING TO MEDICAL MARIJUANA**

The following prohibitions apply to all property within the boundaries of the City of Bay Village, regardless of the zone, adopted specific plan, overlay zone, or any other development or use classification or other designation of property:

- a) It is unlawful for any person to engage in the indoor or outdoor cultivation of medical marijuana or to establish or operate, or to allow, cause, create, suffer, or permit the establishment or operation of a medical marijuana cultivation facility.
- b) It is unlawful for any person to engage in the processing of medical marijuana or to establish or operate, or to allow, cause, create, suffer, or permit the establishment or operation of a medical marijuana processing facility.
- c) It is unlawful for any person to establish or operate, or to allow, cause create, suffer, or permit the establishment or operation of a medical marijuana dispensary.
- d) It is unlawful for any person to deliver medical marijuana, or to allow, cause, create, suffer, or permit the delivery of medical marijuana, except that a patient or caregiver as registered by the State Board of Pharmacy under Section 3796.08 of the Ohio Revised Code may engage in all activities allowed pursuant to Sections 3796.22 and 3796.23 of the Ohio Revised Code.
- e) 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 operating a medical marijuana cultivation facility, processing facility, or dispensary.

### **513.16 PUBLIC NUISANCE; VIOLATION; REMEDIES NOT EXCLUSIVE; PENALTY**

- a) Engaging in any activity or using property to engage in any activity, prohibited under this chapter constitutes a public nuisance subject to abatement.
- b) Notwithstanding any other provision of the zoning ordinances of the City of Bay Village, any person who violates this chapter shall be guilty of a misdemeanor of the first degree. Each day or any portion thereof that a person violates any provision of this chapter shall constitute a separate offense.
- c) Any enforcement action taken pursuant to this chapter shall not prejudice or adversely affect any other action, whether administrative, civil or criminal, that may be brought to abate the public nuisance or violation or to seek compensation for damages suffered. An administrative, civil, or criminal action may be brought concurrently with any other process regarding the same public nuisance or violation.

**SECTION 2.** That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

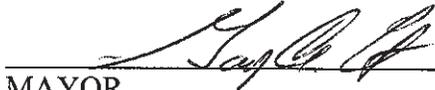
**SECTION 3.** That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED: October 17, 2016

  
CLERK OF COUNCIL

  
PRESIDENT OF COUNCIL

APPROVED: October 18, 2016

  
MAYOR

9-2-16 ll