

ORDINANCE NO. 8 , 2018

**AN ORDINANCE ENACTING NEW SECTION 150.0205, MEDICAL MARIJUANA,
OF THE CITY OF MONTGOMERY ZONING CODE**

WHEREAS, the Ohio General Assembly 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, after enactment of H.B. 523 before the State established the regulatory framework for managing the business of medical marijuana, 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 City of Montgomery; and

WHEREAS, the Planning Commission with the Administrative Staff did carefully study any zoning regulation of such businesses and how such regulations may impact medical providers within the City, including Bethesda North Hospital, The Christ Hospital, medical practices and pharmacies; and

WHEREAS, with notice and an opportunity for testimony as prescribed by law, the Planning Commission has held a series of public hearings on the proposed text amendment, and on February 5, 2018, noting no discernable negative impact in restricting such businesses, Planning Commission by a vote of 5-1 recommended approval of the text amendment; and

WHEREAS, upon the Planning Commission's recommendation with notice and an opportunity for testimony as prescribed by law, Council held a public hearing on the proposed text amendment on April 4, 2018, and weighing the information compiled

by the Planning Commission, Council did unanimously accept such recommendation and authorized proposed legislation to be added to Council's Agenda for consideration.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. Section 150.0205 *Medical Marijuana*, of the Montgomery Zoning Code is hereby adopted and made a part of the Codified Ordinances of the City of Montgomery, as follows:

Sec. 150.0205 Medical Marijuana

150.0205 (A) Legislative Purpose

Although medical marijuana is in some respects legal under applicable state law, it remains illegal under federal law. The purpose of this Section is to prohibit the use of real property in the City for a medical marijuana-related business or home occupation, whether as a cultivator, processor, distributor or dispensary. This section is expressly adopted as authorized by ORC § 3796.29 and as an exercise of the City's power of local self-government and Home Rule authority reserved to the City under the City Charter, and Section 3, Article XVIII of the Constitution of the State of Ohio.

150.0205 (B) Definitions

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

1. "Marijuana" means marijuana as defined in ORC § 3719.01.
2. "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 ORC § 3796.06.
3. "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.

150.0205 (C) Prohibition

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

150.0205 (D) Severability

In the event that any portion of this Section 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 Section shall remain in full force and effect.

SECTION 2. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: July 11 2018

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Christopher P. Dobrozsi
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon
Terrence M. Donnellon, Law Director