

**RESOLUTION NO. 89-2016**

**TITLE: MEDICAL MARIJUANA MORATORIUM**

**A RESOLUTION IMPOSING A MORATORIUM FOR THE NEW MEDICAL MARIJUANA LEGISLATION, AND DECLARING AN EMERGENCY.**

A Resolution to take effect immediately provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, to impose a moratorium on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed six (6) months from the effective date of this resolution, in order to allow council and the Barberton Planning Commission to review applicable Ohio statutes, criminal codes and the Barberton Zoning Code relative to such use.

**WHEREAS**, on June 8, 2016, the Ohio General Assembly has adopted and the Governor has signed into law 131 Sub. H.B. 523, which becomes 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 to prohibit or limit 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.

**WHEREAS**, as such, Council and the Planning Commission require additional time to undertake a review of all applicable codes statewide and within the city in order to formulate a local response to 131 Sub. H.B. 523; and

**WHEREAS**, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact planning and zoning laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality including restricting areas used for businesses and trades; and

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Barberton, State of Ohio:

**SECTION 1.** Council hereby imposes moratorium on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed six (6) months from the effective date of this resolution, in order to allow council and the Barberton Planning Commission to review applicable Ohio statutes, criminal codes and the Barberton Zoning Code relative to such use.

**SECTION 2.** For the purpose of this resolution, “medical marijuana” shall have the same meaning as that term is defined in Section 3796.01(A)(2) of the Ohio Revised Code, effective September 8, 2016.

**SECTION 3.** No building permits, certificates of occupancy or any other permits shall be granted to a business owner who intends to open, use any land or devote any floor area of the business for the purposes of the cultivation, processing, or retail sale of medical marijuana for the period of this moratorium. No valid existing business in the

City may expand in any way that would establish cultivation, processing, or retail sale of medical marijuana for the duration of the moratorium.

**SECTION 4.** The moratorium shall be in effect for a period of six (6) months from the effective date of this resolution or until changes are enacted to amend the Codified Ordinances of the City of Barberton to address these issues or until Council approves legislation explicitly revoking this moratorium, whichever occurs first.

**SECTION 2.** That it is hereby found and determined 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 of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

**SECTION 3.** That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, for the reasons set forth and defined in the preamble to this resolution, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed \_\_\_\_\_ 2016

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Clerk of Council

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President of Council

Approved \_\_\_\_\_ 2016

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Mayor