

THE CITY OF SOUTH EUCLID SCHEDULE OF MEETING

May 22, 2017
8:00 PM

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. REPORT OF MAYOR
4. REPORT OF LAW DIRECTOR & DEPARTMENTAL HEADS
5. PUBLIC HEARINGS (OPEN MEETING) RELATED TO AGENDA ITEMS
6. REPORT OF COMMITTEES

SAFETY COMMITTEE:

1. ORDINANCE 08-17 AN ORDINANCE AMENDING SECTION 531.09 "ABATEMENT OF CRIMINAL ACTIVITY NUISANCES" OF CHAPTER 531 "NUISANCES" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. **SECOND READING.**

ZONING & PLANNING COMMITTEE:

1. ORDINANCE 04-17 CREATING NEW TITLE NINE "MEDICAL MARIJUANA CONTROL PROGRAM" OF PART SEVEN "PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. **THIRD READING.**

7. LEGISLATION REQUESTED BY CITY COUNCIL

1. ORDINANCE 09-17 CREATING NEW SECTION 147.29 "ELECTRIC CHARGING STATION PARKING RESTRICTIONS" OF CHAPTER 147 "PARKING GENERALLY" OF PART ONE "ADMINISTRATIVE CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. **FIRST READING.**

8. COMMUNICATIONS OF CITY COUNCIL

9. PUBLIC HEARINGS (OPEN MEETING) RELATED TO OPEN BUSINESS

10. ADJOURN

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 08-17
INTRODUCED BY: Goodman
REQUESTED BY: Fiorelli

April 12, 2017
Second Reading May 22, 2017

AN ORDINANCE

AN ORDINANCE AMENDING SECTION 531.09 "ABATEMENT OF CRIMINAL ACTIVITY NUISANCES" OF CHAPTER 531 "NUISANCES" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, the Council of the City of South Euclid and the Mayor recognize the value and purpose that criminal activity nuisance laws afford our residents as a deterrent to crime and as an effective law enforcement tool; and

WHEREAS, the Council of the City of South Euclid and the Mayor wish to support efforts to address gun violence and help protect the health, safety and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 531.09 "Abatement of Criminal Activity Nuisances" of Chapter 531 "Nuisances" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

531.09 ABATEMENT OF CRIMINAL ACTIVITY NUISANCES.

(a) The following activities occurring on either residential or commercial properties, or within 1,000 feet of the property line of said residential or commercial property, and engaged in by an owner, occupant or invitee of the owner or occupant of such residential or commercial properties, are hereby declared to be public nuisances.

- (1) Any animal violations under Sections 505.01, Dogs and Other Animals Running at Large; Dangerous and Vicious Dogs; 505.09, Barking or Howling Dogs; 505.06, Poisoning Animals; 505.07, Cruelty to Animals; 505.071, Neglect of Animals; 505.08, Noxious Odors; Unsanitary Conditions;
- (2) Any disorderly conduct, disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;
- (3) Any drug abuse violation under Chapter 513 of the Codified Ordinances;
- (4) Any gambling violation under Chapter 517 of the Codified Ordinances;
- (5) Any health, safety or sanitation violation under Chapter 521 of the Codified Ordinances;
- (6) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances;
- (7) Any alcohol violations under Chapter 529 of the Codified Ordinances;
- (8) Any sex offenses under Sections 533.07, Public Indecency; 533.08, Procuring; 533.09, Soliciting; or 533.10, Prostitution, of the Codified Ordinances;
- (9) Any offense against another person under Chapter 537 of the Codified Ordinances;
- (10) Any offense against property under Sections 541.03, Criminal Damaging or Endangering; 541.04, Criminal Mischief, of the Codified Ordinances;
- (11) Any littering or deposition of waste under Chapter 527 of the Codified Ordinances;
- (12) Any theft violation under Sections 545.05, Petty Theft; 545.08, Unauthorized Use of Property, of the Codified Ordinances;
- (13) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances;
- (14) Any fireworks violation under Chapter 1540 of the Codified Ordinances;
- (15) Any waste container violation under Section 1411.081 of the Codified Ordinances; and
- (16) Any offense that is a felony under the Ohio Revised Code.

(b) The Chief of Police or his designee, upon finding that two or more nuisance activities declared in this section have occurred within any 12-month period, may cause a written notice and order to be served on the owner of the property declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated costs to

abate any future nuisances, and state that the owner may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in this section. The notice shall further state that if a third or subsequent nuisance activity as declared in this section occurs within 12 months of the written notice, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property. Notice shall be served as set forth in Sections 531.02 and 531.03 of the Codified Ordinances.

(c) If within 12 months after the written notice referred to in division (b) of this section has occurred, a third nuisance activity as declared in this section occurs, the City may abate the nuisance by responding to the activity using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property in the same manner as in Section 531.04 of the Codified Ordinances, and the costs shall be calculated as set forth in division (e) of this section. The City shall provide notice to the owner of the nuisance property of the City's intent to assess the costs of abatement against the owner's property at least 30 days before such costs are certified to the County for assessment against the property, and such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in Section 531.03 of the Codified Ordinances.

(d) The owner of a nuisance property who receives a notice from the Chief of Police or his designee pursuant to this section may appeal such notice by submitting a written request for reconsideration to the Chief of Police within 30 days of the date of the notice. If the Chief of Police finds that the facts presented do not support the declaration of a nuisance, the Chief shall rescind the notice. Otherwise, the Chief shall deny the request and refer the appeal for hearing by the Board of Zoning Appeals. Any such appeal shall not stay any actions by the City to abate the first or any subsequent nuisance activity. In any such appeal, the City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the declaration of the property as a nuisance property or of the intent of the City to assess the property for abatement costs, whichever is applicable, is justified. The City shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:

(1) He or she was not the owner at the time of any of the nuisance activity that is the basis of the notice; or

(2) He or she had knowledge of the nuisance activity, but has promptly and vigorously taken all actions necessary to abate each nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9); or

(3) He or she had knowledge of the nuisance activity and could not, with reasonable care and diligence, have known of the nuisance activity; and upon receipt of the notice of the declaration of the property as a nuisance property, he or she promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9).

(e) Costs of abatement shall be assessed based upon an escalating defined cost. The escalating defined costs are: two hundred and fifty dollars (\$250.00) upon the first declaration of nuisance under this chapter; five hundred dollars (\$500.00) on the second nuisance declaration; seven hundred fifty dollars (\$750.00) on the third nuisance declaration; and one thousand dollars (\$1,000.00) on each subsequent nuisance declaration. **If, any violation of nuisance activities described in paragraph (a) 1 through 16 above involves the possession and/or discharge of a firearm in violation of any Federal, State or Local Law, there shall be an additional cost assessed of \$2,000.00 to each enumerated cost listed in this section.**

(f) The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a property, do not affect or limit the City's right or authority to bring criminal prosecution or other legal action against any person for violation of the City's ordinances.

Section 2: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2017.

Jane Goodman, President of Council

Attest:

Approved:

Keith A. Benjamin Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 04-17
INTRODUCED BY: Goodman
REQUESTED BY: Russell

February 27, 2017
As Amended by the Planning Commission:
April 27, 2017
Second Reading: May 8, 2017
As Amended by Z&P Committee: May 8, 2017
Third Reading: May 22, 2017

AN ORDINANCE

CREATING NEW TITLE NINE "MEDICAL MARIJUANA CONTROL PROGRAM" OF PART SEVEN "PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

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

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Title Nine "Medical Marijuana Control" of Part Seven "Planning and Zoning Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby created to read as follows:

TITLE NINE "MEDICAL MARIJUANA CONTROL"

SECTION ONE INTENT

- (a) It is the intent of this section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of marijuana allowed by the Ohio Medical Marijuana Control Program. This is a unique land use with ramifications not addressed by more traditional zoning district and home occupation regulations. Although some specific uses of marijuana are allowed by the Ohio Medical Marijuana Control Program, marijuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense marijuana.
- (b) It is the intent of this section to protect the health, safety, and general welfare of persons and property by limiting land uses related to marijuana to districts that are compatible with such uses. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety, and general welfare of persons in the district, or other uses allowed in each district.

SECTION TWO DEFINITIONS

The following words and phrases shall have the following definitions when used in this section.

- (a) *Words and phrases contained in the Ohio Medical Marijuana Control Program ("OMMCP"), HB523.* This subsection contains some words and phrases that are defined in the OMMCP. As used in this section, they have the same meaning as provided in the OMMCP, except that if at any time the definition of a word or phrase set forth below conflicts with the definition in the OMMCP, then the definition in the OMMCP shall apply. These words and phrases are as follows:

- i. *Department* means the State Department of Commerce.
 - ii. *Marihuana* means that term as defined in Section 3719 of the Ohio Revised Code.
 - iii. *Medical Marijuana* means that term as defined in Section 3796.01 of the Ohio Revised Code.
 - iv. *Primary caregiver* means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marijuana and who has never been convicted of a felony involving illegal drugs.
 - v. *Qualifying patient* means a person who has been diagnosed by a physician as having a qualifying medical condition.
- (b) *Other words and phrases.* The words and phrases in this subsection, as used in this section, shall have the following meanings:
- i. *Marijuana* means "marihuana" as used in the OMMCP.
 - ii. *Medical marijuana cultivation facility* means a building or part of a building where marijuana plants are being grown or processed in compliance with the OMMCP, other than a medical marijuana home occupation or a dwelling unit in which marijuana is being cultivated for a qualifying patient who resides in the dwelling unit as permitted under subsection (7).
 - iii. *Medical marijuana dispensary* means a building or part of a building where 1 or more primary caregivers operate with the intent to transfer marijuana between primary caregivers and/or qualifying patients, other than a medical marijuana home occupation or a dwelling unit in which the transfer of marijuana occurs between a primary caregiver and qualifying patient who resides in the dwelling unit as permitted under subsection (7).
 - iv. *Medical marijuana home occupation* means an accessory use of a nonresidential nature that is conducted by a registered primary caregiver who resides in the dwelling and (A) is performed within a single-family dwelling or within an accessory building to that single-family dwelling; (B) is for the purpose of assisting 1 or more registered qualifying patients with the medical use of marijuana who do not reside in the dwelling and (C) complies with the OMMCP.
 - v. *Medical marijuana research and testing facility* means a building or part of a building where a qualified agency conducts research and testing as permitted by OMMCP.
 - vi. Ohio Medical Marijuana Control Program and *OMMCP* mean HB523 of the 131st Ohio General Assembly

SECTION THREE LOCATIONS OF MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA CULTIVATION FACILITIES

A medical marijuana dispensary or medical marijuana cultivation facility may be located in the city only in accordance with the following restrictions:

- (a) Medical marijuana dispensaries shall only be located in a district classified pursuant to Part Seven Planning and Zoning Code as ~~C2 districts~~ **the following districts: RO, C1, C2, C3, CC, MG.**
- (b) Medical marijuana cultivation facilities shall only be located in a district classified pursuant to Part Seven Planning and Zoning Code as M1 and M2.
- (c) ~~In C2 districts,~~ **Buildings used for medical marijuana dispensaries shall require a conditional use.**
- (d) No medical marijuana dispensary or medical marijuana cultivation facility shall be located within ~~1,000~~ **500** feet of a parcel on which a school, church, public library, public playground, or public park is located.
- (e) **No medical marijuana dispensary shall be located within 500 feet of another legally operating medical marijuana dispensary.**

SECTION FOUR MEDICAL MARIJUANA DISPENSARY AND MEDICAL MARIJUANA CULTIVATION FACILITY REGULATIONS.

- (a) No one under the age of 18 shall be allowed to enter a medical marijuana dispensary or

- medical marijuana cultivation facility unless accompanied by a parent or guardian.
- (b) No smoking, inhalation, or consumption of marijuana shall take place on the premises.
- (c) In M1 and M2 districts, retail sales of products customarily incidental to the principal use shall be allowed provided that the total amount of internal floor area of the structure devoted to sales and display of such products does not exceed 10% of the floor area of the total establishment.
- (d) Drive-in and drive through medical marijuana dispensaries shall be prohibited.
- (e) All activities of a medical marijuana dispensary or medical marijuana cultivation facility shall be conducted indoors.
- (f) No equipment or process shall be used in any medical marijuana dispensary or medical marijuana cultivation facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
- (g) Medical marijuana dispensaries and medical marijuana cultivation facilities shall comply with all other regulations of the zoning district in which the medical marijuana dispensary or medical marijuana cultivation facility is located, except when they are in conflict, in which case this section shall prevail.
- (h) Medical marijuana dispensaries and medical marijuana cultivation facilities are required to obtain an annual license from the Building Commissioner.
- (i) Medical marijuana dispensaries and medical marijuana cultivation facilities shall be operated in compliance with the OMMCP.

**SECTION FIVE CULTIVATION OR OTHER MEDICAL USE OF
MARIJUANA AS A MEDICAL MARIJUANA HOME
OCCUPATION IN SINGLE-FAMILY DWELLINGS.**

- (a) In a single-family dwelling in any zoning district, marijuana cultivation and dispensary shall not be permitted as a home based business.

SECTION SIX MEDICAL MARIJUANA HOME OCCUPATIONS

- (a) Medical marijuana home occupations are not permitted in multiple-family dwellings and other non-single-family dwellings.

**SECTION SEVEN LOCATION AND REGULATION OF MEDICAL
MARIJUANA RESEARCH AND TESTING
FACILITIES**

- (a) Medical marijuana research and testing facilities shall only be located in a district classified pursuant to Part Seven Planning and Zoning Code as M1, M2, and R-O districts.
- (b) Retail sales are not permitted.
- (c) Medical marijuana research and testing facilities shall comply with all other regulations of the zoning district in which the medical marijuana research and testing facility is located, except when they are in conflict, in which case this section shall prevail.

SECTION EIGHT FEES

- (a) Medical marijuana cultivation facilities license fee shall be \$5,000 **annually**.
- (b) Medical marijuana dispensary license fee shall be \$2,500 **annually**.

Section 3: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that the same affects the daily operation of a municipal department and that it is necessary to approve at the earliest possible time. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2017.

Jane Goodman, President of Council

Attest:

Approve:

Michael Love, Acting Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 09-17
INTRODUCED BY: Goodman
REQUESTED BY: Goodman

May 22, 2017

AN ORDINANCE

CREATING NEW SECTION 147.29 "ELECTRIC CHARGING STATION PARKING RESTRICTIONS" OF CHAPTER 147 "PARKING GENERALLY" OF PART ONE "ADMINISTRATIVE CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, the Council of the City of South Euclid and the Mayor recognize the value electric vehicle charging stations have in helping to showcase South Euclid as an environmentally friendly community; and

WHEREAS, the Council of the City of South Euclid and the Mayor recognize that in order for electric vehicle charging stations to be used for their intended purpose, restrictions should be in place to prevent non-electric and non-charging vehicles from using parking spaces which contain charging stations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 147.29 "Electric Charging Station Parking Restrictions" of Chapter 147 "Parking Generally" of Part One "Administrative Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby created to read as follows:

147.29 ELECTRIC CHARGING STATION PARKING RESTRICTIONS.

A. No person shall stop, stand, or park a vehicle other than an electric vehicle within any space marked or signed as reserved for "electric vehicle parking while charging only."

B. It is unlawful to park or permit to be parked any electric vehicle in a space with an electric vehicle charging station that is marked as "electric vehicle parking while charging only" if such electric vehicle is not in the process of charging.

C. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

D. For purposes of this Section, the following definitions apply:

1. "Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes:

a. Any "battery electric vehicle," defined as any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating;

b. Any "plug-in hybrid electric vehicle (PHEV)," defined as an electric vehicle that a) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; b) charges its battery primarily by connecting to the grid or other off-board electrical source;

c. may additionally be able to sustain battery charge using an on-board internal combustion-driven generator; and has the ability to travel powered by electricity;

2. "Electric vehicle charging station" means a public parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle, and that is 1) publicly owned and publicly available (e.g., Park & Ride parking, public

library parking lot, on-street parking), or 2) privately owned and publicly available (e.g., shopping center parking, non-reserved parking in multi-family parking lots).

3. "Electric vehicle parking space" means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

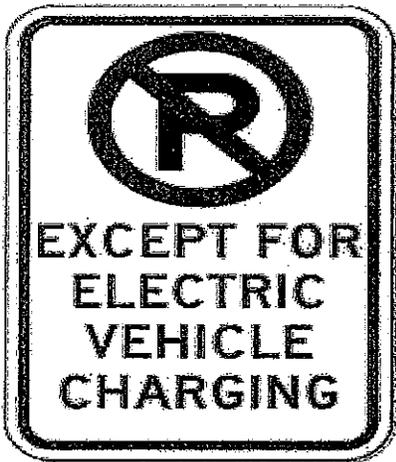
4. "Non-electric vehicle" means any motor vehicle that does not meet the definition of "electric vehicle".

147.99 PENALTY

Refer to Section 147.01(j) "Parking Infraction Fines"

147.01 (j) Parking infraction Fines: Amend Section 147.99 "Penalty" to reflect the fee schedule delineated below.

147.28	\$15.00	\$30.00	\$45.00
147.29	\$15.00	\$30.00	\$45.00



Section 2: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2017.

Jane Goodman, President of Council

Attest:

Approved:

Michael Love, Acting Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law