

ORDINANCE NO. 52-24

**AN ORDINANCE ADOPTING CHAPTER 849 OF THE CODIFIED
ORDINANCES OF THE CITY OF AVON PROHIBITING ADULT USE
(AKA RECREATIONAL) MARIJUANA AND MEDICAL
MARIJUANA DISPENSARIES WITHIN THE CITY
AND DECLARING AN EMERGENCY**

WHEREAS, on November 7, 2023, Ohio voters passed Issue 2 to enact Chapter 3780 of the Ohio Revised Code; and

WHEREAS, Chapter 3780 of the Ohio Revised Code, among other things, creates a Division of Cannabis Control; authorizes that Division to regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed; legalizes and regulates the cultivation, processing, sale, purchase, possession, home grow and use of cannabis by adults at least twenty-one years of age; creates additional protections for individuals who engage in permitted adult use cannabis conduct; prohibits certain local government entities from limiting specific research, levying a tax, or charge on adult use operations, their owner, or their property not generally charged on their business, and prohibits certain local government entities from prohibiting or limiting adult use cannabis home grow or prohibiting or restricting an activity authorized by Chapter 3780; and

WHEREAS, Chapter 3870 also permits the legislative authority of a municipal corporation to prohibit or limit the number of adult use cannabis operators permitted under Chapter 3870 within the municipal corporation; and

WHEREAS, the City's Administration and City Council, having considered the new legislation, the applicable state codes, regulations, and local ordinances in order to formulate a proper local response to O.R.C. Chapter 3870, have decided to prohibit all marijuana dispensaries from operating within the City, regardless of whether for adult use or for medicinal purposes, having determined that such a prohibition would be in the best interests of the health, safety and general welfare of the community; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the proposed Chapter 849 entitled "Medical Marijuana and Adult Use Cannabis" be and the same is hereby adopted in its entirety as set forth in the attached Exhibit A which incorporated herein by this reference.

Section 2 - That the Codifier is hereby instructed to create and insert Chapter 849 into the Avon Codified Ordinances in its proper numerical sequence.

Section 3 - That it is 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 of any of its committees that resulted in such formal actions 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 hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to create regulations relative to prohibiting the dispensing of medical or adult use marijuana in the City before ORC Chapter 3780 regulations are adopted; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: April 22, 2024 DATE SIGNED: April 22, 2024

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: April 23, 2024

Bryan K. Jensen
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Barbara J. Brooks
Barbara J. Brooks, Clerk of Council

Posted: April 25, 2024
Electronically and at City Hall as
Provided by Council

Prepared By:

John A. Gasior, Esq.
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 52-24, passed by the Council of said City on April 22nd, 2024.

IN WITNESS WHEREOF, I have on this 23rd day of April 2024, affixed my signature and official seal.

Barbara J. Brooks
Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio

EXHIBIT A TO ORDINANCE NO. 52-24

PART 8, CHAPTER 849: MEDICAL MARIJUANA AND ADULT USE CANNABIS

849.01 PROHIBITION OF CULTIVATION, PROCESSING OR RETAIL DISPENSARIES OF MEDICAL MARIJUANA.

- (a) The term “medical marijuana” shall have the same meaning as in Section 3796.01(A)(2) of the Ohio Revised Code.
- (b) The cultivation, processing or retail distribution of medical marijuana as authorized by the Ohio Revised Code Section 3796 is hereby and herein prohibited in all zoning districts in the City of Avon pursuant to the authority granted by Ohio Revised Code 3796.29.
- (c) No zoning clearance, permit, or other administrative approval shall be approved or issued by any administrative official of the City of Avon, nor shall any variance be approved or granted to any person, entity or other applicant desiring or intending to operate a business or commercial enterprise for the cultivation, processing or retail sale of medical marijuana within the corporate limits of the City of Avon.
- (d) Any use or condition caused or permitted to exist in violation of any of the provisions of this Section 849.01 shall be and hereby is declared to be a public nuisance and may be abated by the City of Avon.

849.02 PROHIBITION OF CULTIVATION, PROCESSING OR RETAIL DISPENSARIES OF ADULT USE CANNABIS

- (a) The term “adult use cannabis operator” shall have the same meaning as in Section 3780.01(A)(2) of the Ohio Revised Code.
- (b) The commercial cultivation, processing or retail distribution of adult use cannabis is hereby and herein prohibited in all zoning districts in the City of Avon pursuant to the authority granted by Ohio Revised Code 3780.25.
- (c) No person or entity licensed as an adult use cannabis operator under Section 3780 of the Ohio Revised Code shall open, establish, or operate any business or commercial enterprise of any kind within the corporate limits of the City of Avon.
- (d) No zoning clearance, permit, or other administrative approval shall be approved or issued by any administrative official of the City of Avon, nor shall any variance be approved or granted to any person, entity or other applicant desiring or intending to operate a business or commercial enterprise as an adult use cannabis operator within the corporate limits of the City of Avon.
- (e) Any use or condition caused or permitted to exist in violation of any of the provisions of this Section 849.02 shall be and hereby is declared to be a public nuisance and may be abated by the City of Avon.