

ORDINANCE NO. 90-17

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, DEVELOPMENT AND CONSTRUCTION OF 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 ORDINANCE, UP TO AND INCLUDING APRIL 24, 2018, IN ORDER TO ALLOW THE CITY ADMINISTRATION, PLANNING COMMISSION AND CITY COUNCIL TIME TO REVIEW APPLICABLE OHIO STATUTES, CRIMINAL CODES AND REGULATIONS ALONG WITH THE CITY'S CODIFIED ORDINANCES RELATIVE TO SUCH ACTIVITY AND DECLARING AN EMERGENCY.

WHEREAS, on June 8, 2016, the Ohio General Assembly adopted and the Governor signed into law 131 Sub. H.B. 523, which became 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, the City's Administration, Planning Commission and City Council require time to undertake a thorough review of all applicable state codes, regulations and local ordinances in order to formulate a proper local response to 131 Sub. H.B. 523; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, the City of Avon and other Ohio municipalities have the power to enact laws that are for the health, safety, and welfare of their citizens which may include restricting areas used for certain businesses and trades.

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

Section 1 - That the Council of the City of Avon hereby imposes a Six (6) month, up to and including April 24, 2018 Moratorium on the consideration, approval or authorization of any Permitted Use, Special Use or Accessory Use that would enable the cultivation, processing, or retail sale of medical marijuana. This would include the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable said activity within the City. Said Moratorium extends to the submission, consideration or approval of all applications for general development plans, final development plans, special or accessory use permits, occupancy permits, building permits or the like.

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Section 2 - That this Moratorium shall become effective on the date that this Ordinance, following its passage by the Council, is approved by the Mayor, and shall remain in effect for Six (6) months, up to and including April 24, 2018, following the date upon which it became effective unless extended upon a majority vote of the Council for a period of no more than an additional Six (6) months if the Council finds such continuance is required to allow sufficient time for the Administration to complete its study and recommend what action, if any, the City of Avon should take to safeguard the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to activities covered under 131 Sub. H.B. 523 anywhere within the City.

Section 3 - That this Moratorium suspends and tolls any time periods, prescribed by law, within which the Planning Commission or any other official or official body of the City of Avon, is required to take action upon an application for a special use permit, building permit, site plan approval or the like, for the development of land anywhere in Avon and that no such application shall be deemed to be approved by the failure of the Planning Commission, or any other public official or official body to approve or deny said application during the time when this Moratorium shall be in effect.

Section 4 - That the Planning Commission, at its next regular meeting, is hereby directed to begin a study to recommend what action, if any, the City of Avon should take to preserve the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to 131 Sub. H.B. 523 facilities.

Section 5 - If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6 - That it is found and determined that all formal actions of the Council of the City of Avon concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Council of the City of Avon and that all deliberations of this City's Council and any of its committees that resulted in those 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 7 - That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to impose a temporary Moratorium on the consideration, approval or authorization of any applications for any activities conducted pursuant to 131 Sub. H.B. 523, including, but not limited to, facilities that would enable the cultivation, processing, or retail sale of medical marijuana anywhere in the City of Avon to give City officials adequate time to consider what, if any, changes are required to current ordinances to adequately protect the public health, safety and welfare of the community; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

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PASSED: _____ DATE SIGNED:

By: _____
Craig Witherspoon, President of Council

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara J. Brooks
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director