

ORDINANCE NO. 78-22

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE KEEPING OF ANY NEW LIVESTOCK, THE KEEPING OF ANY NEW EQUINE AND FUR-BEARING ANIMALS, AND THE PERFORMANCE OF NEW POULTRY HUSBANDRY AS PART OF FARM USE WITHIN THE R-1 SINGLE-FAMILY AND R-3 MULTI-FAMILY RESIDENTIAL ZONES AS ADDRESSED IN PART 12 OF THE CITY OF AVON CODIFIED ORDINANCES AND DECLARING AN EMERGENCY

WHEREAS, the City of Avon is a chartered municipal corporation organized and existing under the Constitution and laws of the state of Ohio, and as such may regulate uses within the City, including single-family dwellings, multi-family dwellings and farms; and

WHEREAS, the City currently regulates land uses for single-family dwellings, multi-family dwellings and farms within its limits under various provisions within the City's Planning and Zoning Code; and

WHEREAS, a single-family dwelling is defined by the Planning and Zoning Code as "[a] building designed or arranged for use by a single family, consisting of one dwelling unit only, separated from other dwelling units by open space"; and

WHEREAS, a multi-family dwelling is defined by the Planning and Zoning Code as "[a] building or portion thereof designed for occupancy by three or more families living independently of each other in three or more dwelling units where the units are separated by party walls with varying arrangements of entrances"; and

WHEREAS, a farm is defined by the Planning and Zoning Code as "[a] parcel of land having a principal use of agriculture; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod or mushrooms; forestry and forestry products; pasturage; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to such husbandry or production"; and

WHEREAS, the Planning and Zoning Code divides lands in the City into zoned districts, including the R-1 Single-Family and the R-3 Multi-Family Residential Districts; and

WHEREAS, the R-1 Single-Family Residential District has among its primary purposes "[t]o protect the desirable characteristics and promote the stability of existing residential development," and "to permit the development of standard single-family dwellings on individual lots"; and

WHEREAS, the R-3 Multi-Family Residential District has among its primary purposes “[t]o protect the desirable characteristics and promote the stability of existing residential development”; and

WHEREAS, farm uses are only permitted by the Planning and Zoning Code in the R-1 Single-Family and the R-3 Multi-Family Residential Districts; and

WHEREAS, in the General Offenses Code, the City currently regulates the keeping of certain horses, ponies, donkeys and mules, by requiring owners to have two (2) acres in order to keep one such animal and an additional quarter-acre for each additional such animal, with accessory structures to be maintained in accordance with the Planning and Zoning Code; and

WHEREAS, in the General Offenses Code, the City currently regulates setbacks for certain types of farm and livestock uses (for example, riding stables), but is inexplicably silent as to setbacks for other types of farm and livestock uses (for example, dairy cow keeping or noncommercial horse keeping); and

WHEREAS, the minimum-acreage farm and livestock regulation was last modified in 1973, and the farm and livestock setback regulation in 1975, when the City had less than one third the population it has today; and

WHEREAS, in the General Offenses Code the City currently prohibits persons from “keep[ing] or harbor[ing] any animal or fowl in the City so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public”; and

WHEREAS, various regulations contained in the Codified Ordinances with respect to farm and livestock uses reflect the City’s acknowledgment that those uses are, under certain conditions, incompatible with adjoining uses; and

WHEREAS, the Codified Ordinances’ disparate and incompatible regulations with regard to farm and livestock land use in the Planning and Zoning Code, animal keeping and nuisances in the General Offenses Code, the promotion of stability of existing residential development in the Planning and Zoning Code, and the permission of development of standard single-family dwellings in residential zones in the Planning and Zoning Code stand to be reviewed, studied in comparison with other growing municipalities’ codes, and harmonized with one another; and

WHEREAS, the City desires to study the nuisance, health, safety and welfare issues and land development concerns associated with the keeping of farm animals in the R-1 Single-Family and the R-3 Multi-Family Residential Districts, aiming to protect both single- and multi-family residence owners and those who currently maintain farm properties and livestock; and

WHEREAS, while this study occurs a moratorium on the keeping of any new livestock, the keeping of any new equine and fur-bearing animals, and the performance of new poultry husbandry in the R-1 Single-Family and the R-3 Multi-Family Residential Districts, except livestock, equine and fur-bearing animals and poultry that replace those animals in the normal course of business on farm properties existing at the time this moratorium is enacted, is the fairest

and most appropriate way to permit City Council and the Planning Commission the time and ability to complete its work thoughtfully and also balance the interests of the residents; and

WHEREAS, the Charter authorizes City Council to enact emergency ordinances for the preservation of public, health, peace, or safety; and

WHEREAS, this Council, and in particular the Legal Committee, has determined it to be in the best interest of the community and its health, safety, and welfare to impose a temporary moratorium on the keeping of any new livestock, the keeping of any new equine and fur-bearing animals, and the performance of new poultry husbandry in the R-1 Single-Family and the R-3 Multi-Family Residential Districts, except livestock, equine and fur-bearing animals and poultry that replace those animals in the normal course of business on farm properties existing at the time this moratorium is enacted, and while in effect undertake a review of all applicable laws and current legislation to study whether or not amendments to the Codified Ordinances are necessary; and

WHEREAS, this Council believes that a temporary moratorium on the keeping of any new livestock, the keeping of any new equine and fur-bearing animals, and the performance of new poultry husbandry in the R-1 Single-Family and the R-3 Multi-Family Residential Districts, except livestock, equine and fur-bearing animals and poultry that replace those animals in the normal course of business on farm properties existing at the time this moratorium is enacted, will not deny property owners economically viable use of their property and will afford City officials and this Council the necessary time to evaluate these issues in furtherance of the aforesaid purposes.

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

Section 1 – That for the reasons stated in the preamble above, City Council establishes a moratorium for a period of six (6) months from the effective date of this Ordinance, or until December 31, 2022, whichever is later, and during such time no person shall keep any new livestock, keep any new equine and fur-bearing animals, or perform new poultry husbandry in the R-1 Single-Family and the R-3 Multi-Family Residential Districts unless the property is located in an approved (by resolution) Agricultural District, except livestock, equine and fur-bearing animals and poultry that replace those animals in the normal course of business on farm properties existing at the time this moratorium is enacted, with violations thereof enforceable as offenses under Chapter 1238 of the Planning and Zoning Code.

Section 2 – That this moratorium suspends and tolls any time periods, prescribed by law, within which City Council, any City Board or Commission, or any official is required to act upon an application or registration related to the keeping of livestock, the keeping of equine and fur-bearing animals, and the performance of poultry husbandry.

Section 3 – That wherever the provisions of this Ordinance conflict with any other ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall control.

Section 4 – 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 5 – 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, Ohio; the immediate emergency being the necessity to impose a temporary moratorium for planning purposes and to further the orderly development of the City with respect to the keeping of any new livestock, the keeping of any new equine and fur-bearing animals, and the performance of new poultry husbandry, to adopt well thought-out and contemporary zoning and other regulations, and to protect the public interest and rights of property owners; therefore, this Ordinance shall take effect and be in full force immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Anthony Moore, Council President Pro Tem

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara Brooks, Clerk of Council

Posted: _____

In Five Places as
Provided by Council