

ORDINANCE NO. 123-23

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 ADULT USE CANNABIS FOR A PERIOD NOT TO EXCEED NINE (9) MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE 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 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; legalize and regulate the cultivation, processing, sale, purchase, possession, home grow and use of cannabis by adults at least twenty-one years of age; create additional protections for individuals who engage in permitted adult use cannabis conduct; prohibit 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 prohibit 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, 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 O.R.C. Chapter 3870, subject to certain limitations; 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 for the reasons stated in the preamble above, City Council imposes a moratorium beginning with the effective date of this Ordinance and running through **September 10, 2024** 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 adult use cannabis. 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.

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 through September 10, 2024 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 O.R.C. Chapter 3780 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 O.R.C. Chapter 3780.

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 O.R.C. Chapter 3780, including, but not limited to, facilities that would enable the cultivation, processing, or retail sale of adult use cannabis 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.

PASSED: November 27, 2023

DATE SIGNED: November 27, 2023

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: November 28, 2023

Bryan K. Jensen
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

Posted: November 29, 2023
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. 123-23, passed by the Council of said City on November 27, 2023.

IN WITNESS WHEREOF, I have on this 28th day of November, 2023, affixed my signature and official seal.

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