

COUNCIL CHAMBER

VILLAGE OF KELLEYS ISLAND, OHIO

ORDINANCE NO. 2024 – O - 02

INTRODUCED BY: MAYOR RONALD E EHRBAR

AN ORDINANCE ENACTING A NEW CHAPTER 856 “RECREATIONAL MARIJUANA” OF TITLE TWO OF PART EIGHT-BUSINESS REGULATION AND TAXATION CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF KELLEYS ISLAND CONCERNING THE SALE OF RECREATIONAL MARIJUANA AND DECLARING AN EMERGENCY.

WHEREAS, on November 7, 2023, electors in the State of Ohio General Election approved an issue known as Issue 2, an initiative petition to create a new Chapter 3780 of the Ohio Revised Code regarding adult use cannabis control to authorize and regulate the cultivation, processing, sale, purchase, possession, home grow, and adult use cannabis by adults at least twenty-one years of age; and

WHEREAS, on December 7, 2023, Chapter 3780 of the Ohio Revised Code went into effect; and

WHEREAS, Section 3780.25 of the Ohio Revised Code reads in pertinent part as follows:

- (A) The legislative authority of a municipal corporation may adopt an ordinance, or board of township trustees may adopt a resolution, by majority vote to prohibit, or limit the number of adult use cannabis operators permitted under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively; and

WHEREAS, in addition to Chapter 3780.25, Art. XVIII, §3 of the Ohio Constitution (“Home Rule amendment”), provides that “. . . municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.”; and

WHEREAS, the Village Council of the Village of Kelleys Island further determines that the sale of adult use cannabis within the Village of Kelleys Island does not promote and provide for the public peace, health, safety, convenience, comfort, prosperity and general welfare of its residents and pursuant to the authority granted by Art. XVIII, §3 of the Ohio Constitution and Section 3780.25 of the Ohio Revised Code, the Village Council does wish to prohibit “adult use cannabis operators” within the Village of Kelleys Island; and

WHEREAS, this Council finds it necessary to adopt a new Chapter 856 entitled “Recreational Marijuana” of the Codified Ordinances of the Village of Kelleys Island to maintain the public peace, health and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF KELLEYS ISLAND, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That this Council hereby enacts a new Chapter 856 Recreational Marijuana, of Title Two of Part Eight-Business Regulation and Taxation Code of the Codified Ordinances of the Village of Kelleys Island, to read in its entirety as follows:

**CHAPTER 856
Recreational Marijuana**

856.01 Definitions.

856.02 Prohibitions.

856.99 Penalty.

856.01 DEFINITIONS.

As may be used in this Chapter, the following definitions set forth in Section 3780.01 of Chapter 3780 of the current Revised Code are applicable and restated herein:

(a) “Adult use cannabis” or “cannabis” or “marijuana” means marihuana as defined in Section 3719.01 of the Revised Code.

(b) “Adult use cannabis operator” means a level I adult use cultivator, a level II adult use cultivator, a level III adult use cultivator, an adult use processor, and an adult use dispensary.

(c) “Adult use cultivator” means a level I adult use cultivator or a level II adult use cultivator.

(d) “Adult use dispensary” means a person licensed pursuant to Section 3780.15 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to sell adult use cannabis as authorized.

(e) “Adult use processor” means a person licensed pursuant to Section 3780.14 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to manufacture adult use cannabis as authorized.

(f) “Cultivation area” means the boundaries of the enclosed areas in which adult use cannabis is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the cultivation area square footage, enclosed areas used solely for the storage and maintenance of mother plants, clones, or seedlings shall not be included.

(g) “Cultivation facility” means a facility where an adult use cultivator or a level III adult use cultivator is authorized to operate.

(h) “Dispensary” means a person who has a certificate of operation to operate a dispensary under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(i) “Level I adult use cultivator” means either a person who has a certificate of operation as a level I cultivator and who is licensed pursuant to Section 3780.12 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to cultivate adult use cannabis as authorized, or a person who is licensed as a level I adult use cultivator pursuant to Section 3780.12 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to cultivate adult use cannabis as authorized.

(j) “Level II adult use cultivator” means either a person who has a certificate of operation as a level II cultivator and who is licensed pursuant to Section 3780.12 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to cultivate adult use cannabis as authorized, or a person who is licensed as a level II adult use cultivator pursuant to Section 3780.12 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to cultivate adult use cannabis as authorized.

(k) “Level III adult use cultivator” means a person licensed pursuant to Section 3780.13 of the Revised Code, Chapter 3780 of the Revised Code and any rules promulgated thereunder to cultivate adult use cannabis as authorized.

(l) “Level I cultivator” means a person who has a certificate of operation to operate as a level I cultivator under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(m) “Level II cultivator” means a person who has a certificate of operation to operate as a level II cultivator under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(n) “License” means a license by the division of cannabis control to a license applicant pursuant to Chapter 3780 of the Revised Code and the rules adopted thereunder.

(o) “License applicant” means an individual or person who applies for a license under Chapter 3780 of the Revised Code.

(p) “License holder” or “Licensee” means an adult use cannabis operator, adult use testing laboratory or an individual who is licensed under the provisions of Chapter 3780 of the Revised Code.

(q) "Manufacture" means the process of converting harvested plant material into adult use extract by physical or chemical means for use as an ingredient in an adult use cannabis product.

(r) "Person" includes, but is not limited to, an individual or a combination of individuals; a sole proprietorship, a firm, a company, a joint venture, a partnership of any type, a joint-stock company, a corporation of any type, a corporate subsidiary of any type, a limited liability company, a business trust, or any other business entity or organization; an assignee; a receiver; a trustee in bankruptcy; an unincorporated association, club, society, or other unincorporated entity or organization; entities that are disregarded for federal income tax purposes; and any other nongovernmental, artificial, legal entity that is capable of engaging in business.

(s) "Processor" means a person who has been issued a processing certificate of operation pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

856.02 PROHIBITIONS.

(a) No person or entity shall operate within the Village of Kelleys Island as an Adult Use Cannabis Operator.

(b) No person or entity owning, renting, leasing, or having any interest whatsoever in real property located within the Village of Kelleys Island shall operate, authorize or permit any person or entity to operate within the Village of Kelleys Island as an Adult Use Cannabis Operator.

(c) No person or entity shall enter upon or occupy any public property, street, or right-of-way within the Village of Kelleys Island to operate as an Adult Use Cannabis Operator within the Village of Kelleys Island.

856.99 PENALTY.

(a) Whoever violates Section 856.02(a) and/or Section 856.02(b) is guilty of a misdemeanor of the first degree. Each violation shall be deemed to be a separate offense.

(b) Whoever violates Section 856.02(c) is guilty of a misdemeanor of the first degree. Each violation shall be deemed to be a separate offense.

SECTION 2. That is found and determined that all formal actions of the Council of the Village of Kelleys Island concerning and relating to the adoption of this Ordinance were adopted in an open meeting of such body, and that all deliberations of Council of the Village and any of its committees 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. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the Village, and for the further reason that it is immediately necessary to address the issues associated with the regulation of recreational marijuana due to the passage of State Issue 2. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

DATED THIS 18th DAY OF MARCH, 2024.

MAYOR RONALD E EHRBAR

ATTEST:


LISA M KLONARIS, Clerk Treasurer