

**ORDINANCE NO. 2024-42**

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN ORDINANCE ENACTING A NEW CHAPTER 706 “RECREATIONAL MARIJUANA” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF OAKWOOD CONCERNING THE SALE OF RECREATIONAL MARIJUANA AND DECLARING AN EMERGENCY.**

**WHEREAS**, on November 7, 2023, the electors in the State of Ohio General Election approved a measure known as Issue 2, which was an initiative petition to create a new Chapter 3780 of the Ohio Revised Code regarding regulation of the cultivation, processing, sale, purchase, possession, home grow and use of cannabis by adults at least 21 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 a 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 concerning municipal powers of local self-government 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 Council of the Village of Oakwood further determines that the sale of adult use cannabis within the Village 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, this Council does desire to prohibit “adult use cannabis operators” within the Village of Oakwood, Ohio; and

**WHEREAS**, this Council finds it necessary to adopt a new Chapter 706 entitled “Recreational Marijuana” of the Codified Ordinances of the Village of Oakwood, Ohio to maintain the public peace, health, and safety.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

**SECTION 1.** That the Codified Ordinances of Oakwood, Ohio, are hereby amended by the provisions enacted under Section 2 of this Ordinance.

**SECTION 2.** Chapter 706 Recreational Marijuana of the Codified Ordinances of the Village of Oakwood, Ohio is hereby enacted and is to read in its entirety as follows:

### Chapter 706 Recreational Marijuana

706.01- Definitions

706.02- Prohibitions

706.99- Penalties

#### 706.01 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.

## 706.02- PROHIBITIONS

(a)No person or entity shall operate within the Village of Oakwood 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 Oakwood shall operate, authorize or permit any person or entity to operate within the Village of Oakwood 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 Oakwood to operate as an Adult Use Cannabis Operator within the Village of Oakwood.

## 706.99- PENALTY

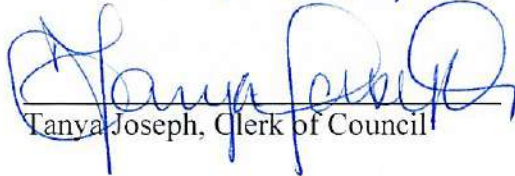
Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the first degree. Each day a violation is committed shall be deemed to constitute a separate offense.

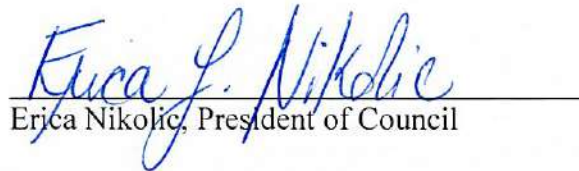
**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any purpose or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The legislative authority of the Village of Oakwood, Ohio hereby declares that it would adopt this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

**SECTION 4.** The Codifier is hereby instructed to incorporate the provisions enacted herein into the Codified Ordinances of the Village.

**SECTION 5.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village, the reason for the emergency being the imminent authorization of licenses for Adult Use Cannabis Operators and the effect that such licenses may have upon the quality of life in Oakwood, therefore, provided it receives two-thirds (66.67 %) of the vote of all members of Council elected thereto, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

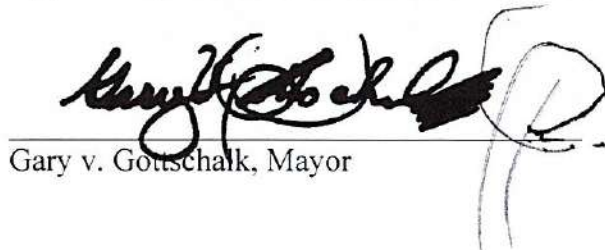
PASSED: 7.9.24

  
Tanya Joseph, Clerk of Council

  
Erica Nikolic, President of Council

Presented to the Mayor: 7.10.24

Approved: 7.10.24

  
Gary v. Gotschalk, Mayor

I, Tanya Joseph, Clerk of Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio, do hereby certify that the foregoing Ordinance No. 2024-42 was duly and regularly passed by this Council at the meeting held on 9<sup>th</sup> day of July, 2024.

  
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Tanya Joseph, Clerk of Council

**POSTING CERTIFICATE**

I, Tanya Joseph, Clerk of Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio, do hereby certify that Ordinance No. 2024-42 was duly posted on the 12<sup>th</sup> day of July, 2024, and will remain posted in accordance with the Oakwood Village Charter

  
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Tanya Joseph, Clerk of Council

DATED: 7.12.24