

**6:59pm-The Lord's Prayer & Moment of Silence**

**Shelby City Council Agenda**  
**Monday, February 5, 2024**  
**COUNCIL CHAMBERS**  
**29 MACK AVENUE**  
**Shelby, Ohio**  
**7:00 p.m.**

**Call to Order and Pledge of Allegiance**

**Roll Call:**

Mr. Roub \_\_\_\_\_ Mr. Roberts \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_ Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_

**Motion to excuse Councilmember Roberts**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**Dispense with the Reading of the Journal from January 16, 2024**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**Public Comment**

Randy Samsel—Shelby Historic Preservation Commission Annual Report

**Reports from Standing and Special Committees**

Community & Economic Development Committee—Councilmember Cutlip

Public Works & General Operation Committee—Councilmember Roub

Parking Committee—Councilmember Roberts—Did not meet

**Reports of City Officials**

Steven L. Schag—Mayor

**MOTION TO CONFIRM THE APPOINTMENT OF TREVOR REED TO THE SHELBY  
HISTORIC PRESERVATION COMMISSION FOR A TERM ENDING 12/31/2028**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**MOTION TO CONFIRM THE APPOINTMENT OF CRAIG HARVEY TO THE POSITION OF SUPERINTENDENT OF THE WASTE WATER TREATMENT PLANT**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**STATE OF THE CITY – ANNUAL REPORT TO COUNCIL**

Brian A. Crum—Director of Finance

Gordon M. Eyster—Law Director

Joe Gies—Project Coordinator

**New Business**

**Unfinished Business**  
Purple Heart Trail

**Legislation**

**SUBSTITUTE ORDINANCE NO 10-2023**

**AMENDING SECTIONS 1490.01 (TITLE AND APPLICATIONS), 1490.03 (DEFINITIONS), 1490.04 (FINDINGS), 1490.09 (MAINTENANCE, RESPONSIBILITY), 1490.10 (GENERAL EXTERIOR MAINTENANCE REQUIREMENTS), 1490.14 (YARD AREA MAINTENANCE), AND 1490.15 (ABANDONED STRUCTURES AND UNOCCUPIED LOTS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY**

**3RD READING**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**PASSAGE OF ORDINANCE**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**ORDINANCE NO 1-2024**

**ENACTING CHAPTER 858 OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY (SALE OF CANNABIS) AND DECLARING AN EMERGENCY**

**Motion that the rule requiring that an ordinance be read on three separate occasions be suspended**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**PASSAGE OF ORDINANCE**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**RESOLUTION NO 4-2024**

**AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT CHANGE ORDER WITH SIMONSON CONSTRUCTION SERVICES, INC FOR THE BLACK FORK COMMONS PROJECT IN THE AMOUNT OF NINE THOUSAND NINE HUNDRED NINETY-EIGHT AND 77/100 DOLLARS (\$9,998.77) AS AN INCREASE AND DECLARING AN EMERGENCY**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

**Miscellaneous Business**

**MOTION TO GO INTO EXECUTIVE SESSION FOR THE FOLLOWING PURPOSE**

Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_  
**TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSE, OR FOR THE SALE OF PROPERTY AT COMPETITIVE BIDDING, IF PREMATURE DISCLOSURE OF INFORMATION WOULD GIVE AN UNFAIR COMPETITIVE OR BARGAINING ADVANTAGE TO A PERSON WHOSE PERSONAL, PRIVATE INTEREST IS ADVERSE TO THE GENERAL PUBLIC INTEREST**

**Adjournment** at \_\_\_\_\_ p.m.  
Moved \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_  
Mr. Martin \_\_\_\_\_ Mr. McLaughlin \_\_\_\_\_ Mr. Roub \_\_\_\_\_ Mr. Cutlip \_\_\_\_\_

2nd Reading  
11/1/2024

**Substitute Ordinance No. 10-2023  
(Sponsors: Councilmembers Roberts and Roub)**

**AMENDING SECTIONS 1490.01 (TITLE AND APPLICATION), 1490.03 (DEFINITIONS), 1490.04 (FINDINGS), 1490.09 (MAINTENANCE RESPONSIBILITY), 1490.10 (GENERAL EXTERIOR MAINTENANCE REQUIREMENTS), 1490.14 (YARD AREA MAINTENANCE), AND 1490.15 (ABANDONED STRUCTURES AND UNOCCUPIED LOTS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY.**

WHEREAS, Section 1490.01, 1490.03, 1490.04, 1490.09, 1490.10, 1490.14, and 1490.15 contain regulations for Exterior Property Maintenance in the City of Shelby; and

WHEREAS, Shelby City Council is desirous to amend said regulations; and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare of the citizens of the City of Shelby that Sections 1490.01, 1490.03, 1490.04, 1490.09, 1490.10, 1490.14, and 1490.15 of Chapter 1490 of the Codified Ordinances of the City of Shelby be amended.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A MAJORITY ELECTED THERETO CONCURRING:**

Section 1: That section 1490.01 (Title and Application) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.01 TITLE AND APPLICATION.**

This chapter shall be known as the Exterior Property Maintenance Code of the city. It is strictly limited to the establishment of minimum standards for the maintenance of exterior surfaces and exterior functioning units of all structures and buildings within the city, including outside areas immediately contiguous thereto. No provisions of this chapter shall, in any way, directly or indirectly, be interpreted to interfere with, or to limit the right of, any owner or resident to inhabit real property owned or leased by him or her in such manner and form as he or she may determine appropriate, consonant with other applicable provisions of law. This chapter is directed to obvious visual problems which may occasion incipient blighting conditions within the city. All matters of the interior use, occupancy or habitation of any structure or building within the city are specifically excluded from the provisions of this chapter.

Section 2: That section 1490.03 (Definitions) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) Abandoned. That to which an owner has relinquished all right, title, claim and possession, with the intention of not reclaiming it or resuming its ownership, possession, or enjoyment.

(b) Abandoned structure. Any building, either constructed or in a partially constructed state, which is permitted to remain uninhabitable/uninhabited for a period of at least six months. Examples of elements which shall determine whether or not a structure has been abandoned are any of the following conditions, but such determination shall not necessarily be controlled by these illustrations: premises where a structure is located and windows or doors are broken; or nonworking or disconnected utilities; or where trash is permitted to accumulate; or where grass and weeds are permitted to grow without being mowed; or where further construction is needed to make such premises habitable; or where taxes remain unpaid on such a structure.

(c) Blight.

(1) A parcel that has one or more of the following conditions:

(aa) A structure that is dilapidated, unsanitary, unsafe, or vermin infested and that because of its condition has been designated by an agency that is responsible for the enforcement of housing, building, or fire codes as unfit for human habitation or use;

(bb) The property poses a direct threat to public health or safety in its present condition by reason of environmentally hazardous conditions, solid waste pollution, or contamination;

(cc) Tax or special assessment delinquencies exceeding the fair value of the land that remain unpaid thirty-five days after notice to pay has been mailed.

(2) A parcel that has two or more of the following conditions that, collectively considered, adversely affect surrounding or community property values or entail land use relationships that cannot reasonably be corrected through existing zoning codes or other land use regulations:

(aa) Dilapidation and deterioration;

(bb) Age and obsolescence;

(cc) Inadequate provision for ventilation, light, air, sanitation, or open spaces;

(dd) Unsafe and unsanitary conditions;

(ee) Hazards that endanger lives or properties by fire or other causes;

(ff) Noncompliance with building, housing, or other codes;

(gg) Nonworking or disconnected utilities;

(hh) Is vacant or contains an abandoned structure;

(ii) Excessive dwelling unit density;

(jj) Is located in an area of defective or inadequate street layout;

(kk) Overcrowding of buildings on the land;

(ll) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(mm) Vermin infestation;

(nn) Extensive damage or destruction caused by a major disaster when the damage has not been remediated within a reasonable time;

(oo) Identified hazards to health and safety that are conducive to ill health, transmission of disease, juvenile delinquency, or crime;

(pp) Ownership or multiple ownership of a single parcel when the owner, or a majority of the owners of a parcel in the case of multiple ownership, cannot be located.

(d) Deterioration. The condition or appearance characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect or lack of maintenance.

(e) Mixed occupancy. Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses.

(f) Nuisance.

(1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the state or ordinances of the city;

(2) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist;

(3) Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this chapter; and

(4) Fire hazards.

(g) Owner.

(1) Any person who, alone or jointly or severally with others, has legal or equitable title to any premises, with or without accompanying actual possession thereof, or has charge, care or control of any dwelling or dwelling unit, as an owner or an agent of the owner, or as a fiduciary, including but not limited to the executor, the administrator, the trustee, the receiver or the guardian of the estate or as a mortgagee in possession, regardless of how the possession was obtained.

(2) Any real estate company, firm, corporation, broker or salesman having a listing agreement with the owner of real property for the purpose of the sale of the same, and not having an additional contractual agreement, oral or written, to manage or maintain the same during the continuance of the listing agreement, is specifically exempted from this definition, and does not fall within the purview of §1490.09 establishing maintenance responsibility.

(h) Premises. A lot, plot or parcel of land, including the buildings or structures thereon.

(i) Refuse. All putrescible and nonputrescible solid waste, except body waste, including but not limited to garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.

Section 3: That Section 1490.04 (Findings) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.04 FINDINGS.**

It is hereby found and determined that there exist in the city various structures, including outside areas immediately contiguous thereto, which are, or may become in the future, deteriorated or defective with respect to exterior maintenance. It is further found and determined that certain conditions, including but not limited to structural deterioration, lack of maintenance of the exterior of premises, lack of maintenance of a satisfactory appearance of premises, and the existence of exterior fire hazards and unsanitary conditions, constitute an immediate threat to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the city. It is further found and determined that, by reason of lack of maintenance and progressive deterioration, the exterior appearance of certain properties has the further effect of creating blighting conditions and initiating depressed neighborhood groupings, and that if the same is not curtailed and corrected, the conditions are likely to grow, spread and necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as herein contained, the growth of the blight may be prevented and the immediate neighborhood and property values thereby maintained.

Section 4: That Section 1490.09 (Maintenance Responsibility) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.09 MAINTENANCE RESPONSIBILITY.**

(a) The owner and manager of every single or multiple-unit structure within the city shall be responsible for maintaining the exterior surfaces of the same in conformity with the provisions of this chapter.

(b) The owner and manager of every multiple-unit structure within the city shall be responsible for maintaining the outside area contiguous thereto in conformity with the provisions of §1490.14.

(c) The owner, manager and any adult resident of a single-dwelling structure within the city shall be responsible for maintaining the outside area immediately contiguous thereto in conformity with the provisions of §1490.14.

(d) Unless expressly provided to the contrary in this chapter, the respective obligations and responsibilities imposed herein upon the owner and manager, as differentiated from those of the residents, shall not be altered or affected by an agreement or contract by and between any of the aforesaid, or between them and other parties.

Section 5: That Section 1490.10 (General Exterior Maintenance Requirements) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.10 GENERAL EXTERIOR MAINTENANCE REQUIREMENTS.**

(a) The exterior surfaces of all structures within the city, be the same functional or aesthetic, shall be maintained in good repair. Any exterior part or feature thereof having functional use shall be capable of performing the use for which the part or feature was designed.

(b) The entire outside area contiguous to all structures within the city, extending from the area immediately adjacent to the structure up to and including the lot line in all directions, shall be maintained in a safe, clean, sanitary, and blight free condition. No junk motor vehicle shall be parked thereon. A junk motor vehicle is a vehicle that meets any of the following criteria and has remained in such condition for a continuous period of fourteen (14) days.

(1) Apparently inoperable;

(2) Does not display a valid license plate;

(3) Partially damaged and/or wrecked including but not limited to any of the following:

missing wheels, tires, engine, transmission, or other mechanical parts;

(4) Partially dismantled or discarded condition.

Section 6: That Section 1490.14 (Yard Area Maintenance) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.14 OUTSIDE AREA MAINTENANCE.**

(a) Refuse.

(1) No furniture designed for indoor use, mattresses, household furnishings, rugs, appliances, dilapidated automobiles or automobile parts, or tires shall be placed or stored in any outside area contiguous to any structure within the city over a period in excess of 24 hours; provided, however, that those of the items are set forth herein which are usually and ordinarily placed for refuse hauling may be so placed for a period of time not to exceed the next regularly scheduled refuse hauling date.

(2) Exterior property areas of all premises shall be kept free of debris, objects, materials or conditions that, in the opinion of the Mayor and/or his or her designee, create a health, accident or fire hazard, are a public nuisance or constitute a blighting or deteriorating influence on the neighborhood. Broken glass, stumps, filth, garbage, trash and debris shall not be permitted on any property.

(b) Vegetation.

(1) All trees, shrubs, plants, or parts thereof which, as a result of death, decay, breaking, placement or neglect, is a hazard or endangers any person, animal or property, or causes a blighting effect on the neighborhood, shall be trimmed in conformity with Chapter 1026, and dead, decayed or broken portions thereof shall be removed.

(2) Grass and weeds shall be maintained, controlled and cut in conformity with Chapter 662.

(c) Appurtenant structures.

(1) All structures located in the outside area contiguous to any residential and commercial structure within the city, such as sheds, barns, garages, bins and the like, shall be maintained in good repair in conformity with other provisions of this chapter having regard to foundations, roofs and exterior surfaces.



(2) Any broken, deteriorated, or decayed fence, yard enclosure or other device or structure located in the outside area contiguous or any residential or commercial structure within the city shall be repaired or removed.

(d) Automobile parking.

(1) No motor vehicle or trailer shall be parked in any part of the yard area contiguous to a residential or commercial structure within the city, other than that area designated by custom and use as the driveway or parking lot, for a cumulative amount of time greater than six hours in any 48-hour period. All driveways must comply with 1022.01.

(2) Other than as provided in division (d)(1) hereof, the parking and storage of all motor vehicles, trailers and other equipment shall be in accordance with the provisions of the traffic code as set forth in Part Four of these Codified Ordinances and the Ohio Revised Code, provided that no junk motor vehicle shall be parked thereon. A junk motor vehicle is a vehicle that meets any of the following criteria and has remained in such condition for a continuous period of fourteen (14) days:

A. Apparently inoperable;

B. Does not display a valid license plate;

C. Partially damaged and/or wrecked including but not limited to any of the following: missing wheels, tires, engine, transmission, or other mechanical parts.

(e) Ground surface hazards. Holes, cracks excavations, breaks, projections and obstructions at any place on the premises which, in the opinion of the Mayor and/or his or her designee, are a hazard using the premises, shall not be permitted.

Section 7: That Section 1490.15 (Abandoned Structures and Unoccupied Lots) of Chapter 1490 (Exterior Property Maintenance) of the Codified Ordinances of the City of Shelby be amended so that section shall read as follows:

**§ 1490.15 ABANDONED STRUCTURES AND UNOCCUPIED LOTS.**

(a) If any structure shall become abandoned, the structure shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the community, and the same shall be abated.

(b) Whenever the Mayor and/or his or her designee shall find any structure to be abandoned within the definition of this section, he or she shall give notice in the same manner as service of a summons in civil action, or by certified mail addressed to the owner of record of the premises at his or her last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods, to abate the abandoned condition within 30 days, by placing the structure in operation in accordance with this section, adapting and using the structure for another use, or razing the structure, removing all debris, any signs, goods, supplies and equipment, and filling depressions to the grade level of the lot; provided, however, that if the structure is in use at the time that notice is given and remains in operation for 90 consecutive days, the provisions of this section shall not apply.

(c) Upon the failure, neglect or refusal of any owner to comply with the notice to abate an abandoned structure, the Mayor and/or his or her designee shall advise the Director of Law of all the facts and the Director of Law shall proceed to exercise on behalf of the city any remedy which shall then be available to it to secure the abatement, including any remedy that pertains to the abatement of a public nuisance, and to recover any damages or enforce any penalties which may be recovered or imposed by the city.

(d) In the case of unoccupied or inoperative structures, whether or not abandoned, the lot upon which any such structure is located, with any other unoccupied lot, shall be maintained in accordance with the provisions of this chapter. Any such lot shall be provided with grass or other appropriate ground cover or landscaping material so as to assure absorption of rainfall and prevent erosion and rapid run-off of surface water. The owner shall cut and maintain all grass or other ground cover and remove all rubbish and weeds from the premises. The parking of motor

vehicles upon the premises shall be prohibited and the Mayor and/or his or her designee may order the owner of the premises to install fencing approved by the Mayor and/or his or her designee, which fencing will be sufficient to block motor vehicle access to the property.

Section 8: That all other Sections of Chapter 1490 of the Codified Ordinances of the City of Shelby shall remain in full force and effect.

Section 9: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 10: That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Steven McLaughlin  
Vice President of Council


APPROVED:

ATTEST: \_\_\_\_\_

Brian Crum  
Clerk of Council

\_\_\_\_\_  
Steven L. Schag  
Mayor

Prepared by:

  
\_\_\_\_\_  
Gordon M. Eyster  
Director of Law

**ORDINANCE NO. 1-2024**  
**(Sponsors: Councilmembers Roberts & Roub)**

**ENACTING CHAPTER 858 OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY (SALE OF CANNABIS) AND DECLARING AN EMERGENCY.**

WHEREAS, on November 7, 2023 electors in the State of Ohio in the 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, effective thirty days from the date of said election; and

WHEREAS, R.C. 3780 authorizes and regulates recreational adult use cannabis operators permitted under Chapter 3780 in the State of Ohio; and

WHEREAS, pursuant to R.C. 3780.01(A)(2), “adult use cannabis operator” means a Level I adult use cultivator, a Level II adult use cultivator, a Level III adult use cultivator, and adult use processor and an adult use dispensary; and

WHEREAS, new Chapter 3780.25 of the Ohio Revised Code entitled, “Local authority regarding adult use cannabis” of Title 37 of the Ohio Revised Code entitled, “Health, Safety, Morals,” 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, Article XVIII, §3 of the Ohio Constitution, (“Home Rule Amendment”), provides that “[m]unicipalities 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, Shelby City Council previously passed Ordinance No. 31-2018 (Prohibition of Medical Marijuana Processing, Cultivation, and Retail Distribution within the City of Shelby); and

WHEREAS, the City Council of the City of Shelby further determines that the sale of adult use cannabis within the City of Shelby 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 R.C. Chapter 3780.25, and Article XVIII, §3 of the Ohio Constitution, the City Council does wish to prohibit “adult use cannabis operators” within the City of Shelby; and

WHEREAS, this Council finds it necessary to adopt a new Chapter 858 entitled “Sale of Cannabis” of the Business Regulations of the Codified Ordinances of the City of Shelby to maintain the public peace, health, and safety; and

WHEREAS, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety, morals, comfort, public peace, prosperity, and general welfare of the City of Shelby because Chapter 3780 went into effect on December 7, 2023.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A TWO-THIRDS (2/3) MAJORITY ELECTED THERETO CONCURRING:**

Section 1: That new Chapter 858 entitled “Sale of Cannabis” of “Part Eight: Title Two – Business Regulation” of the Codified Ordinances of the City of Shelby, Ohio is hereby enacted and shall read as set forth in the attached Exhibit A which is fully incorporated by reference herein.

Section 2: That all other sections of “Part Eight: Title Two – Business Regulation” shall remain in full force and effect.

Section 3: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 4: That this Ordinance is hereby deemed to be an emergency and therefore, shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Steven McLaughlin  
Vice President of Council


APPROVED:

ATTEST: \_\_\_\_\_

Brian Crum  
Clerk of Council

\_\_\_\_\_  
Steven L. Schag  
Mayor

Prepared by:

  
\_\_\_\_\_  
Gordon M. Eyster  
Director of Law

**CHAPTER 858**  
**Sale of Cannabis**

- 858.01 Definitions**
- 858.02 Prohibited Activity**
- 858.03 Savings Clause**
- 858.04 Penalty**

**858.01 DEFINITIONS.**

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

- (1) "Adult use cannabis " or "cannabis " or "marijuana" means marihuana as defined in section 3719.01 of the Revised Code.
- (2) "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.
- (3) "Adult use consumer" means any individual who is at least twenty-one years of age.
- (4) "Adult use cultivator" means a level I adult use cultivator or a level II adult use cultivator.
- (5) "Adult use dispensary" means a person licensed pursuant 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.
- (6) "Adult use extract" or "extract" means a substance obtained by separating or concentrating cannabinoids and other compounds from any part of the adult use cannabis plant by physical or chemical means, intended to be refined for use as an ingredient in an adult use cannabis product or as a standalone adult use cannabis product.
- (7) "Adult use processor" means a person licensed pursuant 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.
- (8) "Adult use testing laboratory" means an independent laboratory that has been issued a license by the division of cannabis control to have custody and use of adult use cannabis for scientific purposes and for purposes of instruction, research, or analysis.
- (9) "Advertising" means any written or verbal statement, illustration, or depiction created to induce sales through the use of or a combination of letters, pictures, objects, lighting effects, illustrations, videos, sounds, or other similar means. "Advertisement" includes brochures, promotional and other marketing materials consistent with section 3780.21 of the Revised Code.
- (10) "Applicant" means an individual or person who files an application for a license pursuant to

Chapter 3780 of the Revised Code.

(11) "Certificate of operation" means a certification of operation or license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(12) "Confidential information" means information that is not a public record for purposes of section 149.43 of the Revised Code.

(13) "Cultivate" means to grow, harvest, package, and transport adult use cannabis pursuant to Chapter 3780 of the Revised Code.

(14) "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.

(15) "Cultivation facility" means a facility where an adult use cultivator or a level III adult use cultivator is authorized to operate.

(16) "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.

(17) "Disqualifying offense" means:

(a) A conviction or plea of guilty, including conspiracy to commit, attempt to commit, or aiding and abetting another in committing, the following:

(i) Any offense set forth in Chapters 2925, 3719, or 4729 of the Revised Code, the violation of which constitutes a felony or a misdemeanor of the first degree;

(ii) Any theft offense set forth under division (K) in section 2913.01 of the Revised Code, the violation of which constitutes a felony;

(iii) Any violation for which a penalty was imposed under section 3715.99 of the Revised Code;

(iv) A crime of moral turpitude as defined in section 4776.10 of the Revised Code; or

(v) A violation of any former law of this state, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in paragraphs (a)(i) to (a)(iv) of this definition.

(b) Any first degree misdemeanor offense listed in paragraphs (a)(i) to (a)(v) of this definition will not automatically disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is

filed.

(c) Notwithstanding paragraph (a) or (b) of this definition, no misdemeanor offense, including misdemeanors of the first degree, related to cannabis possession, cannabis trafficking, illegal cultivation of cannabis, illegal use or possession of drug paraphernalia or cannabis drug paraphernalia, or other cannabis related crimes shall be considered a disqualifying offense.

(18) "Director" means the director of the department of commerce.

(19) "Level I adult use cultivator" mean 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, and either person may operate up to one hundred thousand square footage of space designated as the cultivation area in the application which may be increased if a request for expansion is approved by the division of cannabis control.

(20) "Level II adult use cultivator" mean 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, and either person may operate up to fifteen thousand square footage of space designated as the cultivation area in the application which may be increased if a request for expansion is approved by the division of cannabis control.

(21) "Level III adult use cultivator" means a person licensed pursuant 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.

(22) "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.

(23) "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.

(24) "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.

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

(26) "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.

(27) "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.

(28) "Medical provisional license" means a provisional license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(29) "Minor cannabinoid" means any cannabinoid other than CBD, CBDa, Delta-9 THC or Delta 9 THCa, including any isomer, analogue, or derivative thereof, and any other cannabinoid that naturally occurs in cannabis, regardless of whether that cannabinoid may be naturally or synthetically derived, which may be used as an ingredient in adult use products.

(30) "Mother plant" means an adult use cannabis plant that is cultivated or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to an adult use processor or an adult use dispensary unless the plant is transferred into the cultivation area of the facility.

(31) "Paraphernalia" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.

(32) "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.

(33) "Primary residence" means the residence of an individual in which the individual's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(34) "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.

(35) "Prohibited facility" means any church, public library, public playground, public park, or school, as defined in section 3796.30 of the Revised Code.



(36) "Provisional license" means a temporary license issued to an applicant for an individual license that establishes the conditions that must be met by the licensee before the individual is issued a license in accordance with the requirements and conditions set forth in Chapter 3780 of the Revised Code and the rules adopted thereunder.

(37) "Tetrahydrocannabinol" or "THC" means the sum of the amount of delta-9-tetrahydrocannabinol (THC) and 87.7 per cent of the amount of delta-9-tetrahydrocannabinolic acid (THCA) present in the product or plant material. THC does not include minor cannabinoids.

#### **858.02 PROHIBITED ACTIVITY**

(A) Pursuant to Section 3780.25(A) of the Revised Code, Adult Use Cannabis Operators are prohibited within the City of Shelby, Ohio;

(B) No person shall operate as an Adult Use Cannabis Operator within the City of Shelby, Ohio;

(C) No building permits, certificates of occupancy or any other permits shall be granted by the City of Shelby to any person who intends to open, use any land or devote any floor area of the business for the purpose of the sale of cannabis. Subject to Section 3780.25(B), no existing business in the City may expand in any way that would establish sale of cannabis.

#### **858.03 SAVINGS CLAUSE**

If any provision of this Ordinance, or the application of such provision, should be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Ordinance shall remain in full force and effect.

#### **858.04 PENALTY.**

Whoever violates any provision of this Chapter shall be guilty of a first-degree misdemeanor. Each day's continued violation shall constitute a separate offense.

RESOLUTION NO. 4 -2024  
(Sponsor: Councilmember Roberts)

**AUTHORIZING THE MAYOR AS DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT CHANGE ORDER WITH SIMONSON CONSTRUCTION SERVICES, INC. FOR THE BLACK FORK COMMONS PROJECT IN THE AMOUNT OF NINE THOUSAND NINE HUNDRED NINETY-EIGHT AND 77/100 DOLLARS (\$9,998.77) AS AN INCREASE AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Shelby has entered into a contract with Simonson Construction Services, Inc. for the Black Fork Commons Project, and said contract provides for a written change order; and

WHEREAS, it has become necessary to make additions to the Black Fork Commons Project and adjust the contract as detailed in the attached Change Order #5; and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare of the citizens of the City of Shelby that this change order be approved.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SHELBY, OHIO, A TWO-THIRDS (2/3) MAJORITY ELECTED THERETO CONCURRING:**

Section 1: That the Mayor as Director of Public Service shall be and is hereby authorized to enter into Contract Change Order with Simonson Construction Services, Inc. for the total amount of Nine Thousand Nine Hundred Ninety-Eight and 77/100 Dollars (\$9,998.77) as an increase.

Section 2: That all meetings and hearings concerning the adoption of this Resolution have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby, Ohio.

Section 3: That this Resolution is hereby deemed to be an emergency and therefore, shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Steven McLaughlin  
Vice President of Council


APPROVED:

ATTEST: \_\_\_\_\_

Brian Crum  
Clerk of Council

\_\_\_\_\_  
Steven L. Schag  
Mayor

Prepared by:

  
\_\_\_\_\_  
Gordon M. Eyster  
Director of Law